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Supreme Court of the United States

OCTOBER TERM, 1963

No. 220

LAWRENCE W. BAGGETT, ET AL., APPELLANTS,

vs.

DOROTHY BULLITT, ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON

PETITION FOR CERTIORARI FILED JUNE 20, 1963
PROBABLE JURISDICTION NOTED OCTOBER 14, 1963

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1963

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[fol. 1] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON NORTHERN DIVISION

No. 5598

LAWRENCE W. BAGGETT, ROCKY BAUER, Z. W. BIRNBAUM, JOOST E. BUSINGER, ISABEL S. CARO, GIOVANNI COSTIGAN, J. G. DASH, WILLIAM A. DAWSON, J. PATRICK DONALY, DAVID M. EAVES, JOHN M. EMLEN, T. SAUNDERS ENGLISH, VICTOR ERLICH, ROBERT G. FLEAGLE, RONALD GEBALLE, PATRICK T. GOLDSWORTHY, MILTON P. GORDON, ALEX GOTTFRIED, ALVIN D. GREENBERG, ROBERT E. GREENGO, GORDON GRIFFITHS, W. MARY GRIFFITHS, ISAAC HALPERN, ARNOLD HANSON, W. STULL HOLT, ABRAHAM C. KELLER, ARTHUR L. KOBLER, SCOTT LYTLE, ROBERT W. MACDONALD, D. F. MAGEE, HENRY W. MAIER, WILLIAM H. MATCHETT, KARL P. MAUZEY, TREAVOR J. MCMINN, IRVING MILOWE, ROBERTA MILOWE, WAYNE C. MULLER, RHOADS MURPHEY, DAVID S. NEWMAN, HOWARD NOSTRAND, GORDON H. ORIANS, SIMON OTTENBERG, JACK R. PARSONS, EUGENE C. PIZZUTO, MELVIN RADER, KENNETH EYRE READ, MAX SAVELLE, ANNICK SMITH, C. A. VALENTINE, LESLIE WARNER, JAMES B. WATSON, WALTER B. WATSON, PHILIP E. WILCOX, THEODORE W. WILCOX, AND WILLIAM B. WOOLF, Plaintiffs,

vs.

CHARLES E. ODEGAARD, JOHN J. O'CONNELL, DOROTHY BULLITT, ALBERT MURPHY, JOSEPH DRUMHELLER, JOHN L. KING, HERBERT S. LITTLE, ROBERT J. WILLIS AND HAROLD S. SHEFELMAN, Defendants.

COMPLAINT—Filed June 6, 1962

[fol. 2] Plaintiffs allege:

1. This action arises under section 1 of the Fourteenth Amendment to the Constitution of the United States, as

that Amendment exists independent of the First Amendment and as that Amendment incorporates the First Amendment; and further arises under Article I, Section 10 of the Constitution of the United States. The matter in controversy exceeds the sum of ten thousand dollars, exclusive of interest and costs. This action further arises under section 1343(3) of Title 28, and section 1983 of Title 42 of the United States Code.

2. Each of the plaintiffs is a member of a class so numerous as to make it impracticable to bring them all before the court. The character of the rights sought to be enforced for the various classes is several, but there are common questions of law and fact affecting the several rights and common relief is sought. The plaintiffs here will fairly insure the adequate representation of all members of all classes involved.

3. This action is brought for declaratory relief pursuant to section 2201 of Title 28 of the United States Code and to obtain an interlocutory and permanent injunction of two statutes of the State of Washington pursuant to the provisions of Chapter 155 of Title 28 of the United States Code.

4. Lawrence W. Baggett is employed by the University of Washington as a professor of philosophy, with tenure.

5. Rocky Bauer is a registered undergraduate student at the University of Washington.

6. Z. W. Birnbaum is employed by the University of Washington as a professor of mathematics, with tenure.

7. Joost E. Businger is employed by the University of [fol. 3] Washington as an associate professor of meteorology and climatology, with tenure. He is a citizen of Holland.

8. Isabel S. Caro is employed by the University of Washington as an assistant professor of anthropology.

9. Giovanni Costigan is employed by the University of Washington as a professor of history, with tenure.

10. J. G. Dash is employed by the University of Washington as an associate professor of physics, with tenure.

11. William A. Dawson is employed by the University of Washington as a research instructor in Oceanography.

12. J. Patrick Donaly is an enrolled undergraduate student at the University of Washington.

13. David M. Eaves is employed by the University of Washington as a research assistant in the mathematics department. He is a registered graduate student.

14. John M. Emlen is employed at the University of Washington as a teaching assistant in zoology.

15. T. Saunders English is employed at the University of Washington as an assistant professor of oceanography.

16. Victor Erlich is employed by the University of Washington as a professor of Slavic languages and literature, with tenure.

17. Robert G. Fleagle is employed by the University of Washington as a professor of meteorology and climatology, with tenure.

18. Ronald Geballe is employed by the University of Washington as a professor of physics, with tenure. He is executive officer of the physics department.

19. Patrick T. Goldsworthy is employed at the University of Washington as a research associate professor of medicine.

[fol. 4] 20. Milton P. Gordon is employed by the University of Washington as an associate professor of biochemistry, with tenure.

21. Alex Gottfried is employed by the University of Washington as an associate professor of political science, with tenure.

22. Alvin D. Greenberg is employed by the University of Washington as a teaching assistant in English and is a registered graduate student.

23. Robert E. Greenge is employed by the University of Washington as an assistant professor of anthropology.

24. Gordon Griffiths is employed by the University of Washington as an associate professor of history, with tenure.

25. W. Mary Griffiths is employed by the University of Washington as acting assistant professor of zoology.

26. Isaac Halpern is employed at the University of Washington as a professor of physics, with tenure.

27. Arnold Hanson is employed by the University of Washington as a micrometeorologist.

28. W. Stull Holt is employed by the University of Washington as a professor of history, with tenure.

29. Abraham C. Keller is employed by the University of Washington as an associate professor of romance languages.

30. Arthur L. Kobler is employed by the University of Washington as a research associate professor of electrical engineering.

31. Scott Lytle is employed by the University of Washington as a professor of history, with tenure.

32. Robert W. Macdonald is employed by the University of Washington as a visiting assistant professor of social work.

33. D. F. Magee is employed by the University of Wash-
[fol. 5] ington as an associate professor of pharmacology, with tenure. He is a citizen of the United Kingdom.

34. Henry W. Maier is employed by the University of Washington as an associate professor of social work, with tenure.

35. William H. Matchett is employed by the University of Washington as an associate professor of English with tenure.

36. Karl P. Mauzey is employed by the University of Washington as a teaching assistant in zoology.

37. Treavor J. McMinn is employed by the University of Washington as an assistant professor mathematics.

38. Irving Milowe is employed by the University of Washington as an instructor in the medical school.

39. Roberta Milowe is a registered graduate student in the school of social work at the University of Washington.

40. Wayne C. Muller is a registered graduate student and Falk Foundation Fellow.

41. Rhoads Murphey is employed by the University of Washington as an associate professor of geography, with tenure.

42. David S. Newman is employed by the University of Washington as an instructor of mathematics.

43. Howard Nostrand is employed by the University of Washington as a professor of romance languages and literature, with tenure. He is the executive officer of the Romance Language and Literature Department.

44. Gordon H. Orians is employed by the University of Washington as an assistant professor of zoology.

45. Simon Ottenberg is employed by the University of Washington as an associate professor of anthropology, with tenure.

[fol. 6] 46. Jack R. Parsons is employed by the University of Washington as an associate professor of social work, with tenure.

47. Eugene C. Pizzuto is employed by the University of Washington as an associate professor of art, with tenure.

48. Melvin Rader is employed by the University of Washington as a professor of philosophy, with tenure.

49. Kenneth Eyre Read is employed by the University of Washington as an associate professor of anthropology, with tenure. He is a citizen of Australia and is acting executive officer of the anthropology department.

50. Max Savelle is employed by the University of Washington as a professor of history, with tenure.

51. Annick Smith is employed by the University of Washington as assistant editor of the University of Washington Press.

52. C. A. Valentine is employed by the University of Washington as a visiting assistant professor of anthropology.

53. Leslie Warner is a secretary-typist employed by the University of Washington.

54. James B. Watson is employed by the University of Washington as a professor of anthropology, with tenure.

55. Walter B. Watson is employed by the University of Washington as an assistant professor of sociology.

56. Philip E. Wilcox is employed by the University of Washington as an associate professor of biochemistry, with tenure.

57. Theodore W. Wilcox is employed by the University of Washington as a research associate in the Research Computer Laboratory.

58. William B. Woolf is employed by the University of Washington as an assistant professor in the mathematics department.

[fol. 7] 59. The defendant Charles E. Odegaard is the duly appointed and acting President of the University of Washington. The defendants Dorothy Bullitt, Albert Murphy, Joseph Drumheller, John L. King, Herbert S. Little, Robert J. Willis, and Harold S. Shefelman, are the duly appointed and acting regents of the University of Washington. The defendant Charles E. Odegaard with the advice and consent of the defendant regents, and subject to such regulations as the regents have approved, has the duty of employing and discharging from employment on behalf of the State of Washington all persons employed at the University of Washington.

60. The defendant, John J. O'Connell, is the duly elected and acting Attorney General of the State of Washington. He has the duty of enforcing and interpreting, on behalf

of State of Washington officials, the statutes of the State of Washington. He is the legal adviser of the defendant regents and of the University of Washington.

61. The University of Washington is one of two universities wholly owned and operated by the State of Washington. It employs many thousands of persons and offers academic, scientific and professional education in numerous fields to more than 25,000 persons annually. Through its professors and other teaching personnel it engages in instruction of students and in research, and its academic personnel, therefore, necessarily require as a condition to the satisfactory discharge of their professional duties the widest possible latitude of freedom to inquire, to dispute and to associate with others, which freedom is traditionally granted to universities and to their teachers and students and which is essential to the proper fulfillment of the university's function in American society.

62. Pursuant to Chapter 103, Laws of 1931, and Chapter [fol. 8] 377, Laws of 1955, as interpreted by the Attorney General of the State of Washington, the regents and the president of the University of Washington in 1955 demanded from all employees of the University of Washington, including academic personnel, the execution of an oath, the form of which is set forth in Exhibit "A" attached to this Complaint. The constitutionality of this oath and the statutes upon which it was based was challenged by plaintiffs Nostrand and Savelle in the Superior Court of the State of Washington for Thurston County, Cause No. 28814. The Superior Court held Chapter 377, Laws of 1955, unconstitutional because of a defect in its title. The Supreme Court of the State of Washington, in cause No. 34451, reversed this decision and upheld the constitutionality of the oath and the statute, except as to Section 3 of said statute, which was held unconstitutional and severable. On appeal to the United States Supreme Court, Cause No. 342, October term, 1959, the matter was returned to the State of Washington Supreme Court for a determination of whether the plaintiffs possessed any hearing rights before discharge following a refusal to execute the oath. The State of Wash-

ington Supreme Court thereupon ruled that the plaintiffs involved, having tenure, would be entitled to a hearing upon refusal to execute the oath. The Supreme Court of the United States thereupon dismissed the appeal as not stating a substantial federal question, in view of the ruling of the State of Washington Supreme Court that a hearing was required before discharge. No final determination by the United States Supreme Court of the constitutionality of the oath or statute has thus ever been rendered.

63. Upon advice from the defendant O'Connell, the defendant Odegaard, acting at the direction of the defendant regents has demanded that all members of the university [fol. 9] staff execute an oath in the form set forth in a notice distributed to all employees of the university, dated May 28, 1962, a copy of which is attached as Exhibit "B".

64. Execution of the required oath is by statute and resolution of the defendant regents made a condition precedent to the acceptance of applications for employment, and for the continuation of employment of all the plaintiffs now currently employed at the university, except for those members of the faculty possessing tenure pursuant to their contract of employment with the State of Washington.

65. As to faculty members possessing tenure, the defendant regents by resolution have declared that the only hearing afforded will be limited to the issue of whether any person did in fact fail to execute the required oath, and if it is found as a fact that such was the case then discharge from employment will result regardless of tenure rights.

66. The statutes of the State of Washington requiring plaintiffs to execute such oath, as a condition precedent to their continued employment, or favorable acceptance of an application for employment is an abridgment of their rights, privileges and immunities as secured and guaranteed by the First and Fourteenth Amendments to the Constitution of the United States and Article I, Section 10 of said Constitution, and said statutes are unconstitutional and void both on their face and as they have been construed and applied to plaintiffs, and to all others similarly situated.

67. The oath required is vague and indefinite and beyond the power of the State of Washington to require. The summary and automatic dismissal procedures required by the law for failure to execute the oath constitute arbitrary and capricious action forbidden by the Fourteenth and First Amendments to the United States Constitution in that the law subjects plaintiffs to the risks of unfair prosecution and [fol. 10] the potential deterrence of constitutionally protected conduct as well as depriving the plaintiffs and others in their position summarily and without a hearing of their right to work, their good reputation and their good consciences, because among other reasons, in practical effect, refusal to execute the oath produces a built in inference of disloyalty, guilt and unfitness for the employment they now hold. The law further deprives the plaintiffs, and others in their position, of their constitutional rights to fair and reasonable treatment by state officials for the reason that the statutory procedures operate automatically and summarily, on a vague and indefinite standard and in no way do they afford plaintiffs or any other employee: (1) a reasonable notice of charges; (2) the right to a hearing; (3) an opportunity to cross-examine witnesses supporting the charges; (5) an opportunity to offer evidence on one's own behalf; (6) the right to be represented by counsel.

68. All plaintiffs allege that they cannot sign the oath required by the statute in good conscience and understanding for the reason that the statutes requiring the oath employs terminology unconstitutionally vague and indefinite on its face, as authoritatively construed by the Supreme Court of the State of Washington, and as sought to be applied to all plaintiffs. Moreover, if required from the plaintiffs, the statutes requiring the oath violate the First and Fourteenth Amendments to the Constitution of the United States, in that they require the signing of an oath in terms so fluid and vague that men of ordinary and common intelligence must necessarily guess as to its meaning and differ as to its application and further it requires all plaintiffs to speculate as to penal laws which might be applied to them thereby deterring constitutionally protected conduct and to incur substantial risk of unfair prosecution,

[fol. 11] all of which is arbitrary and discriminatory and in derogation of plaintiff's rights as secured and guaranteed by the Fourteenth Amendment to the Constitution of the United States. The statutes, if upheld, will operate in such a manner as to inhibit, deprive and abridge the rights of plaintiffs, and others similarly situated, to constitutionally protected freedom of speech, freedom of association and religious freedom; furthermore said statutes unconstitutionally require a declaration of belief the terms of which are vague and indefinite.

69. The statute requiring plaintiffs and others similarly situated to execute an oath that they will by precept and example promote a reverence for law and order and an undivided allegiance to the government of the United States are unconstitutional under the Fourteenth and First Amendments to the Constitution of the United States in that said statutes require plaintiffs to declare a belief and allegiance abridging plaintiffs rights to constitutionally protected freedom of speech, belief and association; furthermore, such requirement abridges religious freedom and its exercise as declared by the Fourteenth and First Amendments to the United States Constitution.

70. The statutes involved and the oath constitute bills of attainder, ex post facto laws and laws impairing the obligations of contract in violation of Article I, Section 10 of the United States Constitution.

71. As applied to the plaintiffs here and to the members of the various classes on whose behalf this action is commenced, the oath unreasonably abridges the freedom of inquiry, communication and dissent that are essential aspects of freedom of speech in a university community.

72. If required from the plaintiffs, and others similarly [fol. 12] situated, the oath would unreasonably interfere with the contractual rights of tuition paying students to be exposed to and receive the education for which they have contracted, and would unreasonably interfere with the contractual duty of the plaintiffs who are teachers, and others similarly situated, to furnish the education required from them.

73. There is no reasonable justification for requiring the plaintiffs and others similarly situated to execute the oath. The injury which would be inflicted on the plaintiffs and the university community by the requirement of the oath is substantial. It will result in the intimidation of scholars, it will stifle inquiry and dissent, it will make recruitment of personnel more difficult, it will lower the prestige and professional standing of the University of Washington and adversely affect its general reputation, and of all those, including the plaintiffs, employed there. The defendants concede the oath serves no useful purpose and that it does in fact inflict widespread damage, and they are requiring the oath from the plaintiffs and others only because they believe the statute requires them to. But for the mandatory nature of the statute the defendants would not require such an oath, inasmuch as the defendants believe, as do plaintiffs, and it is a fact, that existing recruitment and promotional procedures at the university are adequate to protect the legitimate public interest without the necessity of the oath.

74. Requiring the oath from prospective applicants for employment at the University of Washington deprives the plaintiffs and others similarly situated of freedom of speech and association in violation of the First and Fourteenth Amendments to the United States Constitution in that prospective applicants for academic positions are reluc-
[fol. 13] tant to accept employment on the condition of executing the oath, for the reasons set forth in this Complaint. As a consequence the University has difficulty in attracting professors, and the plaintiffs and others similarly situated are deprived of association with and are isolated from other scholars in their respective fields.

75. The oath unreasonably interferes with the rights of persons who are not citizens to be employed at the University of Washington in that it sets a condition that has no reasonable relationship to the qualifications for fitness to teach and if enforced would cause irreparable damage to the plaintiffs and others who are citizens as well as those who are not, in that it would deprive the university community and all its faculty and students, including the plain-

tiffs, of essential contact and intercourse with citizens of other nations who are outstanding scholars in their fields, and who would be employed at the University of Washington but for such restriction.

76. Unless the defendants are restrained from enforcing the provisions of the statutes challenged, and from insisting on the execution of the required oath, the plaintiffs and others similarly situated will suffer irreparable injury not compensable in monetary damages. Plaintiffs have no speedy or adequate remedy at law. Should the plaintiffs and others similarly situated insist on exercising their constitutional rights and refuse to execute the oath demanded they will be subject, in the case of non-tenured employees, to immediate discharge from employment, and in the case of tenured employees to immediate discharge after a hearing at which the only issue will be whether in fact they have not executed the oath.

77. An actual controversy exists between the plaintiffs, and others similarly situated, and the defendants, and the [fol. 14] plaintiffs seek the judgment of this court on the rights of the parties in the premises.

Wherefore, plaintiffs pray for the following relief:

1. Plaintiffs pray that a special district court of three judges be instituted to hear and determine this action, pursuant to Section 2281 of Title 28 of the United States Code.

2. Plaintiffs pray that pending the hearing and determination by the full court of an application for an interlocutory injunction, that a temporary restraining order be granted, restraining enforcement of the statutes involved, because of the fact, among other reasons, as alleged herein, that irreparable loss and damage will result to plaintiffs unless such temporary restraining order be granted.

3. Plaintiffs pray that the defendants be perpetually enjoined from enforcing the statutes involved and from requiring any oath pursuant to the provision of said statutes, and that pending the final determination of this action, an interlocutory injunction issue to the same effect.

4. Plaintiffs pray that the statutes and oath involved be declared to be void, unconstitutional and of no effect, on the grounds alleged in the complaint.

5. Plaintiffs pray for costs and other equitable relief.

Byron D. Coney, Attorney for Plaintiffs; Address: 1405 Hoge Building, Seattle 4, Washington.

[fol. 15]

STATE OF WASHINGTON

EXHIBIT "A" TO COMPLAINT

OATH FOR ADMINISTRATIVE, RESEARCH, AND FACULTY PERSONNEL OF THE UNIVERSITY OF WASHINGTON

.....

Department, office or other agency (Print or type)

.....

Title or position (Print or type)

STATE OF .....)
)ss. AFFIDAVIT
COUNTY OF .....)

I, the undersigned, do solemnly swear (or affirm):

[1] That I will support the constitution and laws of the United States of America and of the State of Washington, and will by precept and example promote respect for the flag and the institutions of the United States of America and the State of Washington, reverence for law and order, and undivided allegiance to the government of the United States;

[2] That I am not a subversive person or a member of the Communist Party or any subversive organization, foreign or otherwise, which engages in or advocates, abets, advises, or teaches the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the State of Washington, or of any political subdivision of either of them, by revolution, force or violence;

That this statement is voluntarily made by me, pursuant to the provisions of Chapter 377, Laws of 1955, with full knowledge that the same is subject to the penalties of perjury.

.....
(Signature)

Subscribed to and sworn to (or affirmed) before me this ..... day of ....., 19 ....., at .....,
(City or place)
..... .
(State)

.....

Notary Public in and for the State of .....,
residing at .....

.....

(To be executed in duplicate, one copy to be retained by individual.)

[fol. 16]

EXHIBIT "B" TO COMPLAINT

UNIVERSITY OF WASHINGTON

Office of the President

May 28, 1962

To All Members of the University Staff:

At its meeting on May 25, 1962, the President reported to the Board of Regents that the University had been advised by the Office of the Attorney General of the state of Washington that pursuant to the decision of the Supreme Court of the United States there has now been dissolved the restraining order which had the effect of suspending the requirements as provided by state law that all employees sign the loyalty oath and that the teaching faculty sign, in addition, the oath to support the constitution.

Like every other board, commission, council, department, court, or other agency of the state of Washington, the Board of Regents is required by state law to use procedures designed to ascertain whether a person employed by it is a subversive person and to require every employee or applicant for employment to state under oath whether or not he or she is a member of the Communist party or other subversive organization. The Office of the Attorney General has provided an approved form of statement and oath.

In the case of teaching faculty the oath contains two sections, the first being the oath to support the constitution and the second being the loyalty oath. The text is as follows:

> "I, the undersigned, do solemnly swear (or affirm) that I will support the constitution and laws of the United States of America and of the state of Washington, and will by precept and example promote respect for the flag and the institutions of the United States of America and the state of Washington, reverence for law and order, and undivided allegiance to the government of the United States;
>
> "I further certify that I have read the provision of RCW 9.81.010 (2), (3), and (5); RCW 9.81.060; RCW 9.81.070; and RCW 9.81.083 which are printed on the reverse hereof; that I understand and am familiar with the contents thereof; and I swear (or affirm) that I am not a subversive person as therein defined; and
>
> "I do solemnly swear (or affirm) that I am not a member of the Communist party or knowingly of any other subversive organization.
>
> "I understand that this statement and oath are made subject to the penalties of perjury."

In the case of staff other than teaching faculty, only the second or loyalty oath is required.

The oath to support the constitution has been in effect since 1931 and has not been an object of litigation. The "loyalty" oath was first added in legislation dating from

1955 and has been the object of litigation leading to the deletion of a portion of the law which was declared unconstitutional. Mr. Harlocker, Assistant Attorney General, reports that the statute as upheld now by the courts, in essence requires a person to state that he is not a subversive person or knowingly a member of a subversive organization, that is, a person or organization which commits, advocates, abets, advises, or teaches by any means any act intended to overthrow, destroy, or alter the constitutional form of the government of the United States or of the state of Washington by revolution, force, or violence, the Communist party being declared to be a subversive organization and membership in it being declared to be subversive.

Attention, however, is directed to the full wording of the appropriate provisions of the law which will appear on the reverse of the statement and oath and which are the following:

Subversive Person Ineligible for Public Employment.

"No subversive person, as defined in this act, shall be eligible for employment in, or appointment to any office, or any position of trust or profit in the government, or in the administration of the business, of this state, or of any county, municipality, or other political subdivision of this state." (RCW 9.81.060)

Definition of Subversive Person, Subversive Organization, and Foreign Subversive Organization.

"'Subversive person' means any person who commits, attempts to commit, or aids in the commission, or advocates, abets, advises or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or any political subdivision of either of them by revolution, force, or violence; or who with knowledge that the organization is an organization as described in subsections (2) and (3) hereof, becomes or remains a

member of a subversive organization or a foreign subversive organization. (RCW 9.81.010 (5))

"'Subversive organization' means any organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, by revolution, force or violence. (RCW 9.81.010 (2))

"'Foreign subversive organization' means any organization directed, dominated or controlled directly or indirectly by a foreign government which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or to advocate, abet, advise, or teach, activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, and to establish in place thereof any form of government the direction and control of which is to be vested in, or exercised by or under, the domination or control of any foreign government, organization, or individual." (RCW 9.81.010 (3)).

Communist Party Declared to be Subversive Organization.

"The Communist party is a subversive organization within the purview of chapter 9.81 and membership in the Communist party is a subversive activity thereunder." (RCW 9.81.083)

Oath Required of Employees of State of Washington.

"... Every such person, board, commission, council, department, court, or other agency shall require every employee or applicant for employment to state under oath whether or not he or she is a member of the Communist party or other subversive organization, and refusal to answer on any grounds shall be cause for

immediate termination of such employee's employment or for refusal to accept his or her application for employment." (RCW 9.81.070)

The law provides that "refusal to answer on any grounds shall be cause for immediate termination" of employment. To enable the Board of Regents to acquit itself of the responsibility placed upon it by law, a check of the personnel records of the University is in process so that those persons who have not previously sworn to the required oaths may be requested to do so. These requests will be submitted as soon as possible but surely no later than September 15, 1962. Since the end of the academic year will be reached in a few days and a substantial number of persons will go off the University payroll for the summer and may not even be in Seattle, compliance will be requested by October 1, 1962, with notification that in the event of failure to comply, employment will be terminated 30 days later as of October 31, [fol. 17] 1962, unless a delay in taking action to terminate seems reasonable because of causes other than intentional refusal to sign.

In approving this schedule for actions required in order to comply with the law, the Board of Regents adopted the following statement:

"If any member of the faculty having tenure should fail to comply with the requirements, be given notice of termination of employment, and appeal to the tenure committee, it should be indicated that the grounds for termination are failure to comply with a provision of Washington state law which is binding upon the Board of Regents.

"Attention should be directed to Section 2511 of the Faculty Code and to the underlined portion thereof:

"'The University of Washington Regents accept in principle the concept that tenure for members of the faculty is essential for effective teaching and sustained productivity in scholarship.

"'They furthermore accept in principle the concept that the privilege of a faculty member to hold his position without discriminatory reduction in salary, and not to be removed therefrom, should not be abrogated except for cause and through orderly administrative processes, *maintaining and retaining, however, the responsibilities and obligations of the Board of Regents, as defined in the laws of the state of Washington.*'

"In accepting in principle the concept of tenure and acting within the area of discretion available to it, the Board of Regents seeks to follow the customs on tenure described in Chapter 25 of the Faculty Code. The Board, however, cannot set aside the responsibilities and obligations imposed upon it by the laws of the state of Washington and, therefore, cannot waive requirements as to employment specifically set by law with reference to the execution of the statement and oath."

[fol. 18] [File endorsement omitted]

SUMMONS—Filed June 6, 1962, and Marshal's Return (omitted in printing).

[fol. 20] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

NORTHERN DIVISION

No. 5598

[Title omitted]

APPLICATION FOR TEMPORARY INJUNCTION AND TEMPORARY RESTRAINING ORDER—Filed June 18, 1962

Plaintiffs move the Court for a preliminary and interlocutory injunction, enjoining the defendants and each of

them from enforcing Chapter 103, Laws of 1931, and Chapter 377, Laws of 1955, of the State of Washington, by requiring any of the plaintiffs or any persons similarly situated, to execute the oath set forth in Exhibit "B" attached to the Complaint until the trial of this matter.

Plaintiffs further move the Court for a temporary restraining order, restraining the defendants and each of them from enforcing Chapter 103, Laws of 1931, and Chapter 377, Laws of 1955, of the State of Washington, by requiring any of the plaintiffs or any persons similarly situated, to execute the oath set forth in Exhibit "B" attached to the Complaint, until the earliest possible time the application for a preliminary and interlocutory injunction may be heard.

This application is supported by the attached affidavits.

Byron D. Coney, Attorney for Plaintiffs, 1405 Hoge Building, Seattle, Washington.

[fol. 21]

ATTACHMENT TO APPLICATION FOR TEMPORARY INJUNCTION

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

NORTHERN DIVISION

No. 5598

AFFIDAVIT

LAWRENCE W. BAGGETT, et al., Plaintiffs,

vs.

CHARLES E. ODEGAARD, et al., Defendants.

State of Washington,
County of King, ss.

Gordon Griffiths, being first duly sworn, on his oath deposes and states:

I am one of the plaintiffs in this action, and make this affidavit in support of an application to obtain a temporary restraining order and injunction, restraining and enjoining enforcement of the statutes requiring a loyalty oath from university personnel.

I am acting chairman of the history department. I have received an order from the provost of the University, F. P. Thieme, dated June 4, 1962, a copy of which is attached to this with the notation "Exhibit 1". I responded to this with a letter dated June 13, a copy of which is attached as "Exhibit 2."

I believe the oath and the statutes requiring it to be unconstitutional on the grounds set out in the complaint and for the additional reasons set forth in Exhibit 2. I do believe that the failure to restrain its enforcement pending the trial would result in widespread damage to the university which could not be cured by a subsequent decision declaring the oath void. I say this even though I have been advised that an early trial of this case may

be had in August, before the oaths need technically be [fol. 22] administered. The reason for this is that many people employed at the university will execute the oath in the next few weeks because department heads and deans have been encouraged by the provost to take care of this task before October 1, 1962, to avoid a clerical overload at that time. Thus, even though the oath need not technically be executed until September 30, 1962, the fact remains that many department heads will comply with the provost's request to expedite compliance, and this can only lead to disruption, dissatisfaction and turmoil throughout the university.

Another immediate difficulty which only a temporary restraining order can resolve now concerns the matter of recruitment of new teachers and scholars. Recruitment in the academic world necessarily extends over many months. Many people have been recruited and hired in the last year for the coming school year. Some of these people will be coming from great distances and making extensive financial and personal commitments now in order to come. A good many of these people are not aware that the oath is required and because some may and will object to executing the oath, fairness to them requires that they be notified promptly. If there is no restraining order granted it is likely that some may cancel their commitments to come here even though later proceedings may result in voiding the oath. This type of harm to the university cannot be repaired.

As my letter to the provost states, I am deeply concerned about my status as chairman of the history department. As chairman, I have in effect been ordered to demand from the people in my department an oath which I believe to be illegal and immoral. I have been urged to seek compliance as soon as possible. I know that in refusing to obey this order I am subjecting myself to risks of disciplinary action by the administration, yet I cannot bring myself to perform as directed. Because of this and because the university would suffer no loss if the oath [fol. 23] requirement would be temporarily restrained, I believe a temporary restraining order to be essential in

order that the existing state of affairs be preserved until the issues can be finally resolved in court.

Gordon Griffiths

Subscribed and sworn to before me this 18th day of June, 1962.

Byron D. Coney, Notary Public in and for the State of Washington, residing at Seattle.

[fol. 24] EXHIBIT 1 TO AFFIDAVIT

(Emblem)

UNIVERSITY OF WASHINGTON
OFFICE OF THE PRESIDENT

June 4, 1962

Memorandum to Deans, Directors, and Chairmen

Subject: Statutory Statement and Oath for Faculty and Staff

You have already received a statement of May 28 indicating that the University of Washington is now under legal obligation once again to ask that oaths be signed. I am now writing to expand the initial statement with respect to the process to be followed in obtaining the signatures. The May 28 statement contained a description of the background leading up to the present statutory requirement that we again ask teaching faculty and all other personnel on the staff to sign a statement and oath and gave the form to be used. Copies of the two statements and oaths, Form A for the teaching faculty and Form B for all other members of the staff, are attached.

To enable the University to carry out these responsibilities, *you are asked to request* all persons having teaching responsibility, who have not previously signed the appropriate oath, to sign Oath Form A. For the purposes of this statement and oath, teaching faculty is interpreted as including *all teaching fellows, pre-doctoral associates,* lec-

turers, instructors, and the professorial ranks. If *research appointees* holding professorial titles actually engage in any kind of teaching, as determined by the academic officer who is responsible for the assignment of their duties, they should be asked to sign Oath Form A. If they do not have teaching responsibilities, then they must be asked to sign Form B. Whether the person is paid from general University *funds* or contract and grant funds administered by the University is *irrelevant.*

Oath Form B should be signed by *all* other members of the University *staff*, whether paid on *full-time, part-time or hourly basis* and whether they are a student or not. Again, any person who has previously signed the appropriate statement and oath need not repeat it.

It is evident that the task of obtaining all of these notarized signatures will be protracted and time consuming. Therefore, I am sending to you in this mail a supply of Oath Form A and B with the suggestion that those who wish to complete the form prior to the October 1, 1962 deadline be encouraged to do so since it will reduce the costs of administration in meeting statutory requirements if as many persons as possible will complete the form in the course of the summer and thus reduce the "crash" clerical operation which would otherwise have to be faced near October 1, 1962.

As October 1 approaches, it will be necessary to check the forms received against the total list of appointments or payroll records. For this reason each director or *chairman is asked* to take whatever means he wishes to devise and *keep a record of those under his administrative supervision* who have signed the new forms. My office will soon prepare a list of persons in your unit who have already signed and thus need not submit a new Oath Form A or B. Thus by October 1 each of you should know whether the entire staff under your supervision will have signed the oath and thus be eligible for continuation on the payroll after that date.

[fol. 25] In order to make the task as easy as possible, the following employees on the campus will serve to notarize signatures during regular office hours:

Name	*Department*
Miss Betty Gahringer	Registrar's Office
Professor W. M. Read	University Press
Mrs. Sally Hall	Hospital
Mr. James Reilly	Applied Physics Laboratory
Miss Grace Uyeda	Health Sciences Business Office
Mr. Harry W. Seymour	Registrar's Office
Mr. G. L. Goodson	Hospital
Miss Louise B. Carroll	Engineering
Mrs. Aline Foster	Cashier's Office
Mrs. Betty Thumlert	Payroll

If other names are added, you will be informed of them.

Your attention is also called to the need for informing appointees who are to be on duty October 1, but who have not yet reported on the campus that they must sign the oath. These persons, as well as prospective faculty appointees and employees should be sent a copy of the oaths, *and of the explanatory statement of May 28, 1962.* Signed forms from these persons must be in our hands by October 1, 1962, or at the time of their employment if subsequent to that date.

If you have any question regarding procedures to be followed, please address your inquiry to your dean or division head. If additional copies of the forms and of the statement of May 28 are needed, they can be obtained by calling the Payroll Office, Extension 2668.

/s/ F. P. Thieme

F. P. Thieme
Provost

FPT:ml

Enclosures

DDC-78

[fol. 26] EXHIBIT 2 TO AFFIDAVIT

UNIVERSITY OF WASHINGTON

DEPARTMENT OF HISTORY
SEATTLE 5

June 13, 1962

Dr. Frederick P. Thieme
Provost of University
President's Office
301 Administration Building
Campus

Dear Dr. Thieme:

In your memorandum of June 4, 1962, you asked me to request the staff of the Department of History to sign an enclosed Statement and Oath (the so-called "loyalty" oath), and to keep a record of those who have done so.

Because the Oath, in the second paragraph of Form A, appears to me to be in violation of the Constitution of the United States, I think I am confronted by conflicting obligations. On the one hand I am being asked to engage in what may be illegal acts and so to expose myself to the possibility of criminal liability. On the other hand, if I decline to carry out your request, I may become subject to disciplinary proceedings for disobedience of directives from my superior. This difficulty presents itself on both Form A and Form B.

I find this additional difficulty in Form A, that its second paragraph, if it is unconstitutional, in contradiction to the first, which includes a solemn oath to support the constitution of the United States.

As Acting Chairman of the Department of History, I am bound to defend its interests as I see them, as well as the interests of its members as individuals. Many of them feel a conscientious objection to taking the "loyalty" oath, for reasons including those I mention here. Their feelings confront me with another conflict of obligations. I have the

strongest reluctance to execute your request when this means I must impose upon my colleagues an instrument they regard as offensive. I find repugnant the idea of keeping records of the "loyalty" of my colleagues. Furthermore, it seems to me to be highly improper for the chairman, who has an important influence in the determination of salaries, to be placed in a position to force consciences.

I cannot answer for the consequences of an attempt to impose the oath upon the Department. Even under the conditions of ten years ago, the University of California lost some of its most distinguished scholars through such an attempt. Now, when conditions in the academic market make it much more difficult to attract and hold good men, the attempt might be disastrous. I have invited the attention of the Dean of the College to the difficulties which the Department has already encountered when attempting to recruit men of first quality. At Princeton, at Stanford, at my former college of Lawrence in Appleton, Wisconsin, we have met the same hesitant questioning as to whether the candidate would be leaving an atmosphere of freedom of inquiry to enter one in which it was stifled. As I wrote to Dean Katz on May 16, "The (loyalty) oath . . . is certain to reduce the attractiveness of employment at this University. Anyone who knows anything about the attitudes of scholars in History (as well as in some other subjects) will appreciate their concern on this subject."

[fol. 27] For all the above reasons, and in the light of my interpretation of the Oath, until I receive a clarification of the conflict of interest which bothers me and a directive to do so, I feel compelled to decline to request the oath of the members of this Department, pending clarification of the issues in the courts.

I consider that I am acting out of loyalty to the political tradition out of which our constitution developed. As John Locke pointed out,

> The community perpetually retain a supreme power of saving themselves from the attempts and designs of any body, even of their Legislators, whenever they

shall be so foolish, or so wicked, as to lay and carry on designs against the liberties and properties of the subject. (Second Treatise, section 149).

Respectfully yours,

Gordon Griffiths
Acting Chairman

GG/js

[fol. 28]

ATTACHMENT TO APPLICATION FOR TEMPORARY INJUNCTION

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON,

NORTHERN DIVISION

No. 5598

AFFIDAVIT

LAWRENCE W. BAGGETT, et al., Plaintiffs,

vs.

CHARLES E. ODEGAARD, et al., Defendants.

State of Washington,
County of King, ss.

Kenneth E. Read, being first duly sworn, on his oath deposes and states:

I am one of the plaintiffs in this action and make this affidavit in support of the application for a temporary restraining order and injunction. I am an associate professor of anthropology and am acting Chairman of the Anthropology Department. I am a citizen of Australia.

I have read the affidavits of Ronald Geballe and Gordon Griffiths and agree with the statements made therein.

I want to emphasize that the University will suffer no damage of any kind by the granting of a temporary restraining order now. On the other hand I agree with Professors Geballe and Griffiths that the next several months are critically important insofar as the administration of the oath is concerned. If it is not temporarily enjoined then it is certain that many chairmen of departments will comply with the directive of the provost and expedite the administering of the oath. Even though in a technical sense the oath need not be executed until the end of September, 1962, yet many persons will do so through ignorance of their rights, or reluctance to assert them. In addition, many people employed at the university are [fol. 29] leaving for periods extending beyond the October deadline. In my own department several men will be leaving shortly for New Guinea for many months and the regulations are not clear that they may execute the oath on their return if they return after October 1, as a consequence there is serious doubt as to whether they should execute the oath now. This is only one example of many different situations which may arise. A similar problem arises in respect to newly hired people, or others about to be hired either on a temporary or visiting basis or as permanent additions to the faculty. Many of these people have strong objections on legal grounds to execution of such an oath. If no restraining order is granted these people will be in doubt as to their legal rights and those who object to executing it and who must make arrangements now are in an impossible situation.

Even though the trial of this action may occur before October 1, I have been advised by counsel that no matter which way the case is decided it is likely that an appeal will result which could under no circumstances be heard before October 1, 1962. As a consequence lasting adverse results will accrue to the university generally if there is no clear directive from the court. That until the matter is resolved by the Courts no one need execute the oath, regardless of how far in the future the university admin-

istration postpones the effective date. Such a ruling could only redound to the benefit of the university as a whole.

K. E. Read

Subscribed and sworn to before me this 18th day of June, 1962.

Byron D. Coney, Notary Public in and for the State of Washington, residing at Seattle.

[fol. 30]

ATTACHMENT TO APPLICATION FOR TEMPORARY INJUNCTION

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

NORTHERN DIVISION

No. 5598

AFFIDAVIT

LAWRENCE W. BAGGETT, et al., Plaintiffs,

vs.

CHARLES E. ODEGAARD, et al., Defendants.

State of Washington,
County of King, ss.

Ronald Geballe, being first duly sworn on oath, deposes and states:

I am one of the plaintiffs in this action and make this affidavit in support of an application to obtain a temporary restraining order and injunction restraining enforcement of the statutes requiring a loyalty oath from university personnel.

I am chairman of the physics department. I have received a directive from the provost of the university, F. P. Thieme, dated June 4, 1962, a copy of which is attached hereto as Exhibit 1. I believe the oath and the statutes

requiring it to be unconstitutional on the grounds alleged in the complaint in this action. Unless a temporary restraining order is granted pending a trial of the issues of this case I can refuse to administer the oath to the faculty members and others in my department only at my peril. If the statutes and the oath should eventually be held constitutional then any refusal on my part now would subject me to the possibility of disciplinary action or discharge. On the other hand, if I demand that personnel in my department execute the oath I may be demanding [fol. 31] an illegal act that likewise could subject me to legal action.

There is no question but that if a temporary restraining order is not granted now, many people employed at the university will be presented with the oath and will execute it, thus being deprived of what I believe to be their constitutional rights not to do so. This will result because of the encouragement from Provost Thieme to deans, directors and chairmen to get the job done before October 1, 1962, to avoid a clerical overload.

It is my belief that neither the university nor the defendants will suffer any loss or damage if a temporary restraining order is granted, but if a temporary restraining order is not granted all of us at the university will suffer an injury which would not be repaired even by a successful outcome of the trial of the action.

Ronald Geballe

Subscribed and sworn to before me this 16th day of June, 1962.

Byron D. Coney, Notary Public in and for the State of Washington, residing at Seattle.

[fol. 32] Clerk's Note

Memorandum to Deans, Directors, and Chairmen, dated June 4, 1962 is omitted from the record here as it appears printed on page 23, side folio 24 supra.

[fol. 34] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
NORTHERN DIVISION

No. 5598

[Title omitted]

AFFIDAVIT OF FREDERICK P. THIEME—Filed June 20, 1962

[fol. 35]
State of Washington,
County of King, ss.:

Frederick P. Thieme, being first duly sworn, on oath deposes and says: I am a citizen of the United States of America and the state of Washington, over the age of twenty-one years, and competent to be a witness herein.

I am now, and for all times pertinent hereto, have been, Provost of the University of Washington. As Provost I am the principal academic officer of the university and have under my direct administration the processing of all academic appointments. The faculty personnel office is under my jurisdiction and I am responsible for the handling of all forms relating to the status of all academic personnel. In addition, my general responsibilities require me to establish policy and procedures affecting nonacademic employees.

The removal of the previous legal restraining order has presented the University of Washington with a difficult problem as it tries to set up clear-cut procedures to meet the statutory requirement that all teachers sign one form of the oath and all other employees sign a more limited form of oath. To indicate the size of the task involved in these procedures, it needs to be realized that some 13,000 persons are employed full or part time by the University. Included in this total are many students employed for a few hours at a time; nearly 3,500 versons paid from non-state-appropriated grant and contract funds; over 450 clinical staff appointees, eighty per cent who serve without stipend but who still contribute in some degree to teaching and research activities; a number of faculty and staff on the payroll who are currently serving outside the state or even the national boundaries; and many other persons who because of the nature of their duties are not easily classifiable

as to the form of oath they must sign or, indeed, whether they are to be included at all under the provision of the statute as it affects state employees.

This latter question, for instance, arises in the case of the Applied Physics Laboratory, which is supported in its en- [fol. 36] tire operation by the U. S. Navy Bureau of Weapons and employs nearly one hundred security-cleared persons. The same question of proper classification applies to the over three hundred research assistants and the ninety-odd research professorial appointees and other supporting personnel who are paid from grant and contract funds. These funds represent a considerable part of the payroll; during the past fiscal year the University expended over $15,000,000 from such sources, and in the following years that sum will almost surely increase. The most significantly complicating element in this classification of personnel, however, is not its numbers but the fact that many persons in it have, from time to time, responsibilities for instruction. In many cases these responsibilities cannot be immediately and clearly defined as teaching responsibilities; in all cases, the University will need to make individual inquiry about which form of oath it is proper to ask them to sign. Whatever the final disposition of matters to satisfy the legal requirements, it is clear that the procedures to be followed in the administration of the oaths are not only complex and time consuming but involved with knotty questions of definition and classification.

A special complicating element has been added with the institution on June 6, 1962, of judicial proceedings which question the validity of the statutes requiring the oath. Since June 7 the University has been deluged with queries as to whether the oath need now be signed. It is being asked, for example, whether prospective employees who are due to report next fall are obliged to sign and if so what will be their obligation at that time. And there are other basic questions. Some of these center on the fact that the regular teaching faculty is made up of over 1,400 individuals of whom only approximately eight hundred hold tenure. Those with tenure have the right of hearing, yet if they do not sign by October 1, 1962, their status during the pen-

dency of their hearing is uncertain. The question coming from them is whether they be allowed to teach or not while their status is being determined. A further question is this: in light of the test of the validity of the oath statutes, will [fol. 37] the requirement of signing apply only to non-petitioners? All of these questions come at a time when the University is facing a shortage of qualified staff.

The University takes a responsible attitude toward these and similar questions from its personnel and will proceed as expeditiously as possible to deal with them. However, while the problems of the administration of the oath prior to June 6 were demanding, the institution of further proceedings to test the validity of the oath now introduces additional questions, new personnel problems, and unavoidable turmoil which will endure so long as the statute is under judicial review.

Frederick P. Thieme

Subscribed and sworn to before me this 13th day of June, 1962.

Aline R. Foster, Notary Public in and for the state of Washington, residing at Seattle

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[fol. 38] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

NORTHERN DIVISION

AFFIDAVIT—Filed June 20, 1962

State of Washington,
County of King, ss.

I, Mrs. Jean Ashford, Acting Librarian of the Health Sciences Library of the University of Washington, being duly sworn, depose and say that on or about June 4, 1962, I received twenty (20) copies of the oath forms which were referred to in President Odegaard's statement of May 28; that I began distribution of these forms on Monday, June 11, 1962; that the University employees under my superyi-

sion have been requested to return the completed forms to me "as soon as possible"; that approximately seven employees have already completed, signed, and had notorized, and returned said oath to me.

Jean Ashford, Acting Librarian, Health Sciences Library.

Subscribed and sworn to before me this 19th day of June, A.D. 1962.

Grace Uyeda, Notary Public in and for the State of Washington, residing at Seattle.

[fol. 39] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
NORTHERN DIVISION

No. 5598

[Title omitted]

TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE—June 25, 1962

This Matter coming on for hearing before the undersigned Judge of the above-entitled Court on the application of the plaintiffs for a temporary restraining order, and the Court having examined the affidavits in support of said application, finds on the basis thereof that unless a temporary restraining order is granted as requested by plaintiffs that irreparable damage will result to the plaintiffs and the members of the various classes they represent in that loyalty oaths in the form alleged by the plaintiffs have now been distributed to the Deans of the various colleges, department heads, and executive officers for presentation to the plaintiffs and others similarly situated, and unless restrained temporarily now it is likely that many persons

employed at the University will execute the oath before its constitutionality can be tested in this action, and once having executed it such persons will be deprived of their constitutional rights to refuse to execute such oath which the plaintiffs allege are possessed not only by plaintiffs but by all persons similarly situated. Moreover, the plaintiffs who are executive officers of departments have been directed by defendants to administer the loyalty oath and encouraged to do so expeditiously, and unless a temporary restrain- [fol. 40] ing order is granted now, these plaintiffs will be placed in the position of having to demand from others an oath they believe to be illegal and unconstitutional, or disobey an order from their administrative superiors with consequent results. In addition, some employees of the university are leaving prior to July 1, 1962, for remote parts of the world, such as New Guinea, and will not return by October 1, 1962. The issues raised are substantial. Whatever harm or inconvenience to the defendants that may result from a temporary restraining order is more than outweighed by the harm, inconvenience and threatened loss of constitutional rights incurred by the plaintiffs and the classes they represent if a restraining order is not granted. On the basis of these findings, it is

Ordered, Adjudged And Decreed that the defendants and each of them be and they are hereby temporarily restrained from enforcing Chapter 103, Laws of 1931 and Chapter 377, Laws of 1955, of the State of Washington, by requiring the plaintiffs or others similarly situated to execute either Oath Form A or Oath Form B, copies of which are attached to this order, and it is further

Ordered, Adjudged And Decreed that the defendants and each of them are hereby ordered to appear on Friday, July 13, 1962 at 2 P.M., or on such other day as the matter may be continued to in accordance with law, before a special United States District Court of three Judges convened at the United States Courthouse at Seattle, Washington, in accordance with the requirements of Chapter 155 of Title 28 of the United States Code, and then and there show cause, if any they may have, why this temporary restraining order should not be continued in effect as a preliminary

and interlocutory injunction pending the trial of this action, [fol. 41] in accordance with the motion of the plaintiffs; and it is further

Ordered, Adjudged And Decreed that a condition of this restraining order shall be the giving of security by the plaintiffs consisting of a bond in the amount of $1000.00 for the payment of such costs and damages as may be incurred or suffered by any party who was found to have been wrongfully enjoined or restrained.

Done In Open Court this 25th day of June, 1962.

William J. Lindberg, District Judge.

Presented by: Byron D. Coney, Attorney for Plaintiffs, 1405 Hoge Building, Seattle 4, Washington.

[fol. 42]

ATTACHMENT TO TEMPORARY RESTRAINING ORDER

Oath Form A

STATE OF WASHINGTON

Statement and Oath for Teaching Faculty of the University of Washington

I, the undersigned, do solemnly swear (or affirm) that I will support the constitution and laws of the United States of America and of the state of Washington, and will by precept and example promote respect for the flag and the institutions of the United States of America and the state of Washington, reverence for law and order, and undivided allegiance to the government of the United States;

I further certify that I have read the provisions of RCW 9.81.010 (2), (3), and (5); RCW 9.81.060; RCW 9.81.070; and RCW 9.81.083, which are printed on the reverse hereof; that I understand and am familiar with the contents thereof; that I am not a subversive person as therein defined; and

I do solemnly swear (or affirm) that I am not a member of the Communist party or knowingly of any other subversive organization.

I understand that this statement and oath are made subject to the penalties of perjury.

.....
(Signature)

.....
(Title and Department)

Subscribed and sworn (or affirmed) to before me this .....day of ....., 19.....

.....
Notary Public in and for the state of Washington, residing at .....

.....

(To be executed in duplicate, one copy to be retained by individual.)

NOTE: Those desiring to affirm may strike the words "swear" and "sworn to" and substitute "affirm" and "affirmed," respectively.

[fol. 43] *Subversive Person Ineligible for Public Employment.*

"No subversive person, as defined in this act, shall be eligible for employment in, or appointment to any office, or any position of trust or profit in the government, or in the administration of the business, of this state, or of any county, municipality, or other political subdivision of this state." (RCW 9.81.060)

Definition of Subversive Person, Subversive Organization, and Foreign Subversive Organization.

"'Subversive person' means any person who commits, attempts to commit, or aids in the commission, or advocates, abets, advises or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state

of Washington, or any political subdivision of either of them by revolution, force, or violence; or who with knowledge that the organization is an organization as described in subsections (2) and (3) hereof, becomes or remains a member of a subversive organization or a foreign subversive organization. (RCW 9.81.010 (5))

"'Subversive organization' means any organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, by revolution, force or violence. (RCW 9.81.010 (2))

"'Foreign subversive organization' means any organization directed, dominated or controlled directly or indirectly by a foreign government which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or to advocate, abet, advise, or teach, activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, and to establish in place thereof any form of government the direction and control of which is to be vested in, or exercised by or under, the domination or control of any foreign government, organization, or individual." (RCW 9.81.010 (3))

Communist Party Declared to be Subversive Organization.

"The Communist party is a subversive organization within the purview of chapter 9.81 and membership in the Communist party is a subversive activity thereunder." (RCW 9.81.083)

Oath Required of Employees of State of Washington.

". . . Every such person, board, commission, council, department, court, or other agency shall require every

employee or applicant for employment to state under oath whether or not he or she is a member of the Communist party or other subversive organization, and refusal to answer on any grounds shall be cause for immediate termination of such employee's employment or for refusal to accept his or her application for employment." (RCW 9.81.070)

[fol. 44]

ATTACHMENT TO TEMPORARY RESTRAINING ORDER

Oath Form B

STATE OF WASHINGTON

Statement and Oath for Staff of the University of Washington Other Than Teaching Faculty

I certify that I have read the provisions of RCW 9.81.010 (2), (3), and (5); RCW 9.81.060; RCW 9.81.070; and RCW 9.81.083 which are printed on the reverse hereof; that I understand and am familiar with the contents thereof; that I am not a subversive person as therein defined; and

I do solemnly swear (or affirm) that I am not a member of the Communist party or knowingly of any other subversive organization.

I understand that this statement and oath are made subject to the penalties of perjury.

.....
(Signature)

.....
(Title and Department or Office)

Subscribed and sworn (or affirmed) to before me this .....day of ....., 19.....

.....
Notary Public in and for the state of Washington, residing at .....

.....

(To be executed in duplicate, one copy to be retained by individual.)

NOTE: Those desiring to affirm may strike the words "swear" and "sworn to" and substitute "affirm" and "affirmed," respectively.

[fol. 45] *Subversive Person Ineligible for Public Employment.*

"No subversive person, as defined in this act, shall be eligible for employment in, or appointment to any office, or any position of trust or profit in the government, or in the administration of the business, of this state, or of any county, municipality, or other political subdivision of this state." (RCW 9.81.060)

Definition of Subversive Person, Subversive Organization, and Foreign Subversive Organization.

" 'Subversive person' means any person who commits, attempts to commit, or aids in the commission, or advocates, abets, advises or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or any political subdivision of either of them by revolution, force, or violence; or who with knowledge that the organization is an organization as described in subsections (2) and (3) hereof, becomes or remains a member of a subversive organization or a foreign subversive organization. (RCW 9.81.010 (5))

" 'Subversive organization' means any organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United

States, or of the state of Washington, or of any political subdivision of either of them, by revolution, force or violence. (RCW 9.81.010 (2))

"'Foreign subversive organization' means any organization directed, dominated or controlled directly or indirectly by a foreign government which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or to advocate, abet, advise, or teach, activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, and to establish in place thereof any form of government the direction and control of which is to be vested in, or exercised by or under, the domination or control of any foreign government, organization, or individual." (RCW 9.81.010 (3))

Communist Party Declared to be Subversive Organization.

"The Communist party is a subversive organization within the purview of chapter 9.81 and membership in the Communist party is a subversive activity thereunder." (RCW 9.81.083)

Oath Required of Employees of State of Washington.

". . . Every such person, board, commission, council, department, court, or other agency shall require every employee or applicant for employment to state under oath whether or not he or she is a member of the Communist party or other subversive organization, and refusal to answer on any grounds shall be cause for immediate termination of such employee's employment or for refusal to accept his or her application for employment." (RCW 9.81.070)

[fol. 46]. [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
NORTHERN DIVISION

No. 5598.

[Title omitted]

NOTICE OF AMENDMENT OF COMPLAINT—Filed July 9, 1962

To: The defendants

The Attorney General and Herbert Fuller, his assistant. Attorneys for defendants.

Please take notice that the plaintiffs move to amend their complaint by substituting the following paragraph for paragraph 76 of the complaint.

"76. Unless the defendants are restrained from enforcing the provisions of the statutes challenged, and from insisting on the execution of the required oath, the plaintiffs and others similarly situated will suffer irreparable injury not compensable in monetary damages. Plaintiffs have no speedy or adequate remedy at law. The plaintiffs and others similarly situated insist on exercising their constitutional rights and refuse to execute the oath demanded. They will be subject, in the case of non-tenured employees, to immediate discharge from employment, and in the case of tenured employees to immediate discharge after a hearing at which the only issue will be whether in fact they have not executed the oath.

Byron D. Coney, Of Counsel for Plaintiffs.

Proof of service (omitted in printing).

[fol. 47] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
NORTHERN DIVISION

No. 5598

[Title omitted]

ORDER DISMISSING CERTAIN PLAINTIFFS—Filed July 17, 1962

The defendants having moved to dismiss the action as to all plaintiffs, such motion containing the following ground, among others:

1. To dismiss the action as to plaintiffs, Rocky Bauer, Jay Patrick Donaley, Robert Milowe, and Wayne C. Muller, on the ground that they lack standing to challenge the validity of the oath requirement statute (Chapter 254, Laws of 1951, as amended, Chapter 377, Laws of 1955, RCW 9.81), inasmuch as they are not "public officials" or "employees" of the State of Washington within the meaning of that statute, but students attending the University of Washington; nor are they "teachers" under Chap. 103, Laws of 1931.

Briefs having been submitted and argument having been heard on July 13, 1962, before Gilbert H. Jertberg, United States Circuit Judge, William J. Lindberg, United States District Judge, and William T. Beeks, United States District Judge, it is hereby

Ordered that the motion to dismiss be and the same is hereby denied except as to the ground set forth above. It is therefore

Ordered that plaintiffs Rocky Bauer, Jay Patrick Donaley, Roberta Milowe, and Wayne C. Muller, be and they [fol. 48] are hereby dismissed with prejudice.

Dated This 17th day of July, 1962.

William J. Lindberg, United States District Judge.

Presented by: Herbert H. Fuller, Deputy Attorney General, Of Attorneys for Defendants.

[fol. 49] [File endorsement omitted]

[fol. 50]

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
NORTHERN DIVISION

Civil Action
No. 5598

[Title omitted]

DEPOSITION UPON ORAL EXAMINATION OF WILLIAM Z. BIRNBAUM—Filed July 18, 1962

Seattle, Washington
July 5, 1962

APPEARANCES:

For the Plaintiffs: Arval Morris, Attorney at Law, Byron D. Coney, Attorney at Law.

For the Defendants: Herbert H. Fuller, Deputy Attorney General, Ernest M. Furnia, Assistant Attorney General.

[fol. 51] Be It Remembered, that pursuant to written notice and on Thursday, July 5, 1962, at the hour of 2:00 o'clock thereof, at the Hoge Building, Seattle, King County, Washington, before me, Louis R. Guevara, a Notary Public in and for the State of Washington, personally appeared William Z. Birnbaum, a Plaintiff herein, called as a witness at the instance of the Plaintiffs, who, having been first duly sworn, was thereupon examined and testified in said cause.

WILLIAM Z. BIRNBAUM, a Plaintiff herein, called as a witness, having been first duly sworn, was examined and testified as follows:

Mr. Morris: This deposition is taken pursuant to the Federal Rules of Civil Procedure. It is agreed that all objections are waived, except that counsel for Defendants expressly reserve their full rights of objection to the form of the questions and substance of the answers elicited

thereto. It is understood all objections can be made and ruled upon at the time of trial.

Q. Would you state your name and address for the Court, please?

A. Birnbaum. My first name is Z. William. The address is 14620 Southeast 55th Bellevue, Washington.

Q. And would you tell the Court what your occupation is?

A. I am professor of mathematics at the University of Washington, Director of the laboratory of statistical research.

[fol. 52] Q. Professor Birnbaum, are you a Plaintiff in this case?

A. Yes, sir.

Q. Professor, how long have you been employed at the University of Washington?

A. Since September, 1939.

Q. Are you a tenured employee?

A. Yes.

Q. Professor, are you in possession of any information which would indicate that any aspect of your employment has been unfavorable to your employer?

A. No.

Q. Would you state for the Court your teaching and research experience before becoming a faculty member at the University of Washington?

A. My original education took place in Poland. I taught mathematics in what was known as Gymnasium. There I conducted seminars in mathematics at the University of the City of Lwow, Poland. I spent two years on post-doctoral research in mathematics at the University of Goettingen, Germany. I was for a period of six years an actuary, and part of that time Chief Actuary, for a life insurance company. During all that time I have conducted research and published research papers. The time from 1937 to 1939 I spent in the employ of the New York University where I had a research appointment. I arrived at [fol. 53] the University of Washington in 1939.

Q. Could you describe briefly the extent of your formal education?

A. Grade school in Gymnasium, in what used to be an autonomic monarchy, and part of it later became part of Poland. Master of Law degree at the University of Lwow, Poland; teaching certificate in mathematics at the same university; Ph.D. degree in mathematics at the same university; two years of post-doctoral work at the University of Goettingen; diploma of an actuary at the University of Goettingen. That is about my formal training.

Q. Did you say that you came to the University of Washington in 1939?

A. Yes.

Q. What has been your major field of research and teaching in your almost twenty-three years at the University of Washington?

A. Besides the standard courses which I have taught as part of my teaching obligations, my specialty has been the theory of probability and mathematical statistics.

Q. How long have you been a professor at the University of Washington?

A. My first appointment was as acting assistant professor. The attribute "acting" was removed after one year. And I do not recall the exact dates of my promotions.

[fol. 54] Q. Do you remember the date of your last promotion, to full professor; do you have some idea?

A. At least ten years ago, but I am not sure of the date.

Q. Professor, have you done any writing in your specialized area which has been published?

A. I have published one book, more than forty original research articles, and a large number of publications, such as book reviews, critiques, comments on other works.

Q. Have you delivered any papers or addresses on the subjects of your research and teaching?

A. On the average two or three a year; some of them invited addresses at congresses, at meetings; some of them contributed papers of a short duration, invited. This is usually being one hour.

Q. Have you received any fellowships?

A. I held a Guggenheim Grant for a year. I have, many years ago in Poland, received government fellowships for my study and research.

Q. During your time at the University of Washington have you received any honors and recognition on your writing and teaching in the area of your specialty?

A. I have been President of the State of Washington Chapter of the American Statistical Association. Pardon me—misnomer. Not the State of Washington, the Pacific Northwest Section of the American Statistical Association. [fol. 55] President of the Pacific Northwest Division of the Society for Industrial and Applied Mathematics. I have been a member of the Council of the Institute of Mathematical Statistics; Fellow of the Institute of Mathematical Statistics; Fellow of the American Statistical Association. That is all.

Q. When you deliver the lectures that you mentioned earlier, do you deliver these lectures at the invitation of various organizations?

A. Yes. The so-called invited addresses were always by personal invitation.

Q. Are you a member of the organizations from which you received some of the invitations?

A. Yes, sir.

Q. Is it necessary for you to belong to certain professional organizations in order to maintain your professorial status and reputation?

A. It is essential for maintaining contact with one's colleagues in the profession, for keeping well informed and up-to-date on the state of the art, to be a member of various national and international organizations.

Q. Could you tell us the organizations to which you belong; just those that are directly connected with your professorial activities?

A. The American Mathematical Society, The Mathemati- [fol. 56] cal Association of America, the Institute of Mathematical Statistics, the American Statistical Association, the Society for Industrial and Applied Mathematics. I don't know if you consider, let's say, the American Association of University Professors in the same category. It is a professional organization.

Q. Do you attend the meetings of these organizations from time to time?

A. As regularly as my time permits.

Q. What is the general purpose of these organizational meetings?

Mr. Fuller: Object to the form of the question as being leading.

By Mr. Morris:

Q. Could you describe what takes place at the organization meetings?

A. At those meetings, depending on whether they are on the regional, national, or international level, people specializing in a field of study and research get together and present contributed papers, which are brief presentations of recent research results; longer expository papers; and invited addresses in which whole areas of a field are presented in more detail. In addition to that people of common interest meet informally outside of the actual lecture rooms and exchange recent discoveries, recently obtained information in an informal conversation and discussions. They [fol. 57] exchange anything from recently acquired knowledge of scientific progress to personal news: who will be located where during the next year; where he can be reached; can I correspond with him; what is he interested in. Informal explorations take place about available positions; academic teaching/research positions; about the possibility of being invited for visiting appointments for short periods of time and longer periods of time from university to university, from country to country. So that the whole range is covered between the exchange of purely scientific information to practical information on the people involved. And there is a certain amount of social get-together. Also, usually at meetings of that kind, at least once a year, elections take place: officers are voted in, committees are assigned, various specialized committees meet and transact business.

Q. Are the organizations to which you belong limited to Americans?

A. No.

Q. Could you describe for the Court the membership of some of the organizations in which you participate?

A. The International Congress of Mathematicians, which I expect to attend in the near future, is a global organization at which mathematicians from all countries will be represented.

[fol. 58] Q. Could tell us how old that Congress—what the organization—

A. (Interposing) It is an international organization which is called the International Congress of Mathematicians. They meet once every four years. They maintain a permanent office in the interim period. And the physical location of the Congress is determined by invitation and negotiation from one four-year session to another. That would be one of the organizations.

And just to complete the answer to your question, the Institute of Mathematical Statistics, to which I am quite closely connected as a member of the Council and an active member of the various committees for many years—and which also will hold a meeting this summer—is a professional organization which initially was American, but expanded by creating a European Division. And the meeting I expect to attend will be held in Dublin, Ireland. And it will be sponsored by the European Division of the Institute of Mathematical Studies. So by now the Institute of Mathematical Statistics encompasses at least two continents, the American Continent and the European.

Q. Could you describe for us some of the people who will be in attendance at that meeting? Tell us from what country they will come.

A. May I start with the International Congress of Math-
[fol. 59] ematicians? There will be mathematicians from all countries in which mathematical research is actively pursued. And that includes in particular the American Continent, Western Europe, and a substantial number of countries behind the Iron Curtain.

Q. Could you tell us what countries you are referring to as countries behind the Iron Curtain?

A. Spectacular mathematical research goes on in the Soviet Union, in Poland, Hungary, Czechoslovakia; in about this order of magnitude. The most important work being done in Russia, then in Poland, then in Hungary and

Czechoslovakia. I expect representatives from at least these four countries to be present.

Q. Would you expect you would be in association with them at this Congress?

A. Yes. I have known some of the most outstanding Russian mathematicians since I have worked together with them at Goettingen in 1931 and '32; some of my former acquaintances from Poland, whom I have known before leaving for the United States, and whom I have met repeatedly at previous International Congresses.

Q. What is the nature of the association that you will expect to have, and that you have had in the past at these meetings?

A. It will be at the official events of the Congress; a [fol. 60] matter of communicating news and achievements.

Q. Now, will your exchange of information with scholars from the Soviet Union and other Iron Curtain countries deal with information which could be of military significance?

A. None of the information I have and will present is in any sense classified information. Whether it may have military significance is a question which nobody can answer, because any human endeavor can possibly be used for military purposes. And a straight yes or no answer is impossible.

Q. Could you tell us why you have attended the meetings of the International Congress, and why you are going to this next meeting?

A. It is part of my professional duties to keep abreast on the most recent developments in my field, to keep in touch with other people who do the same kind of work. International Congresses are indispensable means for keeping in immediate contact, without lag of time if possible, with achievements in other countries.

Q. Are you going to the Congress as a participant or do you hold an office with the International Congress?

Mr. Fuller: Pardon me. I object to the form of the question.

Mr. Morris: I will restate it.

Q. In what capacity will you be going to the meeting of the International Congress to be held at Dublin?

[fol. 61] A. In Stockholm. The International Congress of the Institute of Mathematicians is in Stockholm. There I will be as one of the two official delegates of the University of Washington. Eleven members of our faculty will be there. Two of them are designated as official delegates. I also have been invited to serve as Chairman of certain sections of the Congress.

Q. Do you hold any office?

A. I may add one more thing. My attendance there is being sponsored by the Office of Naval Research.

Q. Could you describe that in greater detail, please?

A. I have been the Chief Investigator—or an alternate title, Project Director of Research Contracts sponsored by the Office of Naval Research now for a considerable number of years—since 1948. In that function I have been delegated by the Office of Naval Research to many different meetings; and this is one of such missions.

Q. I would like to ask you a question about your other sponsor, the University of Washington. Are you going with the official approval of the University of Washington?

A. Yes.

Q. Do you expect to be in contact with people from the Soviet Union?

A. Yes.

Q. Now, I would like to ask a question about the other [fol. 62] organization to which you belong, the Institute of Mathematical Statistics. Could you tell me what the nature of its meetings happen to be?

A. The Institute of Mathematical Statistics is the leading professional organization of mathematical statisticians. The journal they publish, called the "Annals of Mathematical Statistics" has been the leading periodical in this special field of mathematics. The meetings of the Institute of Mathematical Statistics have all the functions of meetings of a scientific society. And, as I have mentioned before, I have been particularly active within the framework of the Institute of Mathematical Statistics. As a matter of fact, my name has been put on the ballot as the only candidate

for President Elect of the Institute of Mathematical Statistics. And the election will take place in September, this year.

Q. Does this procedure mean that it is inevitable that you will be elected President?

A. Barring very unforeseen occurrences, yes.

Q. Being the only candidate you would probably, then, be President of the Institute for the year 1963-'64?

A. Correct.

Q. Would you describe for the Court the nature of the duties you would be called upon to perform as President of the Institute of Mathematical Statistics?

[fol. 63] A. The functions of the President are described in the Constitution and Bylaws of the Institute, which I don't have before me at this point, but I can describe them by experience and knowledge. The President of the Institute represents the Institute at most official occasions. He appoints committees of the Institute. He transacts correspondence in the name of the Institute with other scientific organizations, government agencies, individuals in the United States and abroad. He is responsible for initiating and pursuing the scientific policies of the Institute—scientific and professional policies of the Institute. That is in a very few sentences the function of the President.

Q. Would your election to this office be considered an advance in your professorial status within your profession?

A. It is the highest honor that a member of the profession can achieve within the profession.

Q. Will you have any contact with members of the Soviet when you discharge these duties?

A. Judging by past experience, the office of the President of the Institute of Mathematical Statistics receives and handles a steady flow of communication and correspondence from all over the world. In view of the great importance of the research and study that goes on behind the Iron Curtain, I will expect there will be a very substantial flow of communication both ways, incoming and outgoing, in that [fol. 64] direction. There also may be—again judging by what other Presidents have done—a considerable amount of being asked for advice and consulted by scholars from all over the world, who either should be invited to come to

the United States or for whom arrangements should be made to have the results of their research published here or other places.

Q. Does this mean then that you expect as President to further their interests?

A. Instead of replying with a "yes", which I could, I would like to elaborate in a few sentences. I further expect to further the interest of research, and if what is needed is to render any assistance to any scientist, who is creative, original, or promising, I would expect to do that.

Q. What forms would you expect this to take, based on past experience?

A. May I counter with some examples?

Q. Yes, please.

A. Manuscripts are being submitted by authors from all over the world. Those manuscripts have to be evaluated and recommendations have to be given on whether they are worthy of publication or not. Sometimes they contain the nucleus of very valuable results. But whoever reads them has helpful suggestions to make. Those helpful suggestions are submitted to the authors. They are being defi- [fol. 65] nitely helped in that way. That kind of exchange of information improves the manuscript, which in the end is very often acceptable for publication in this country. That is one possibility. Creative, productive people from all over the world are very eager to come to the United States. Recommendations may have to be given inviting such people to the United States. That is another way of performing that function.

Now, those would be—may I ask, did your question refer strictly to the function of the President of the Institute, or would any other way of—

Q. The question went to the President of the Institute.

A. Strictly the President?

Q. Yes.

A. The President of the Institute is very often approached by such Federal agencies as the Academy of Sciences. He is asked for advice on invitations, on sending delegates from here to other countries, on exchange of visiting scientists; and that kind of opinion will have to be rendered.

Q. Is it entirely feasible that a representative of the Soviet Union might come to the United States at your urging?

A. It is feasible; it has happened many times before at the urging of other Presidents of the Institute.

Q. Is it entirely feasible that he may obtain information while he was here that he would not otherwise have?

A. Any scientific exchange is a two-way street, and the [fol. 66] answer to that question must be yes.

Q. Is it also feasible that that information might be put to the service of the Soviet Union on his return there?

A. It is entirely feasible.

Q. Professor, are you in any way connected with any professional journals?

A. I had been, until somewhat more than a year ago, editor of the Annals of Mathematical Statistics, the official periodical of mathematical statistics, the leading journal in the field.

Q. Would you describe for the Court the nature of this publication?

A. It is a periodical with issues appearing four times a year in which original research results are published in the field of mathematics, statistics, and the theory of probability. Articles containing new contributions to the science are published, or once in awhile very comprehensive expository articles covering a certain segment of the field. Articles are contributed by specialists in the field from all over the world. While the original issues twenty-odd years ago contained mainly publications originating in the United States, this has been changing as time went on. And an ever increasing fraction of the total number of articles come from abroad.

Q. Would you describe your duties as editor regarding [fol. 67] these articles?

A. Manuscripts were coming to me in the mail. I had to look them over to form an opinion in the field into which they belonged and form a preliminary judgment of their quality. Some were obviously not good enough to be published; those were returned to the authors immediately. Some looked like articles worth further consideration; those were assigned to one of a panel of specialists who then

served as a referee. He read the article in detail and returned it to me with comments. Those comments could be anywhere within the following range: it could be a recommendation to accept unconditionally as in the form in which the article was originally presented; the referee's report may have been a recommendation to reject outright—for example, because the results were not new, were already known. In most cases the referee's recommendation contained a number of constructive suggestions and criticisms, pointing out that certain things could be presented better or could be derived in a better way, or that some results presented by the author could even be improved. Those recommendations were then, together with a copy of the manuscript or without it, sent back to the author with a request for him to consider those recommendations, incorporate them into the manuscript and send in a revised version. That process very often went several times back and [fol. 68] forth until the manuscript was reformulated and revised into a form which met with the approval of the referee and the editor; in which case it was finally accepted for publication.

Q. Have you done this for authors who might come from the Soviet Union or some other Iron Curtain country?

A. Yes, it has been done, and the same procedure was applied in the case of such manuscripts as the one I described right now.

Q. Do you expect to continue doing this in the capacity of other than editor of the Annals of Mathematical Statistics?

A. If I am elected President I certainly would not return to the editorship because the Presidency is a time-consuming position. I do expect to continue what I have been doing for many years, to serve as a referee for manuscripts, for individual manuscripts as they come in; in which case I would perform a similar function. I would read in detail, formulate recommendations and suggestions for improvement, for revision, and return the manuscript with my referee's report to the editor who then would utilize those recommendations.

Q. Is it entirely feasible that the assistance you give Soviet authors might be used for military purposes by the Soviet Union?

A. I must repeat what I have said before. In this day and age any human thought can be used for military purpose, [fol. 69] and therefore, the answer must be, yes, it is entirely feasible. Of course, any such exchange of information goes both ways. So long as there is free exchange of thought anybody who receives thoughts can use them for his purpose.

Q. Professor Birnbaum, have you performed these editorial-type functions for manuscripts other than those published in the Annals of Mathematical Statistics?

A. I have served as consulting editor for commercial publishers, for one publishing firm in the East in particular, on a long term arrangement. And I have given recommendations on a considerable number of publications or books. One of those books in particular was a book written by a Hungarian mathematician and a member of the Hungarian Academy of Sciences. And I have urged the publisher, very often strongly, to obtain publishing rights for the English translation of that book, because I thought it would be a most valuable addition to the supply of books available in this country.

Q. Professor Birnbaum, could you tell us whether any of these people, with whom you have had associations are members of the Communist Party?

A. I have no positive information on that. The thought that comes to mind, though, is that if somebody is a member of the Academy of Sciences of a Communist controlled country, or if somebody has a high position in the academic [fol. 70] hierarchy of a Communist controlled country, or if somebody is being sent as a delegate to an International Congress by a totalitarian government such as the Communist Government, or if he is given permission to leave on an exchange professorship, he must have made his peace with his regime. So how—

Mr. Fuller: Pardon me, before you go on.

Would you repeat Counsel's last question? Not the answer, just Counsel's last question.

(Question, Page 20, Line 19 read by the Court Reporter.)

Mr. Fuller: I will object to that as being leading.

By Mr. Morris:

Q. Professor Birnbaum, do you know the political affiliation of any of the people who attended any of these Congresses and with whom you have associated?

A. I do not know with any certainty. But I can only observe that any scientist who is a member of an Academy of Science of a Communist controlled nation, or who is being sent by such a nation to an International Congress, or who holds a high position in the academic hierarchy of such a country, or who even is given permission to leave his totalitarian-controlled country for a visit abroad, that any such person must have established a good reputation with his government, must be in the good graces of his government.

[fol. 71] Q. What do you see is the benefit which flows from your associations with these people at the various Congresses?

Mr. Fuller: Object to that as being leading.

By Mr. Morris:

Q. Could you describe for the Court the value that you achieve from being in attendance at these Congresses and associating with these people?

Mr. Fuller: Same objection.

By Mr. Morris:

Q. Would you please go ahead and answer that and we will reserve the objection.

A. I consider it a duty of the scientist, a faculty member, a citizen who happens to be a scientist, to keep abreast of the most recent developments in his field. And that can only be possible by keeping in constant contact with other people in the same field of research no matter where on the globe located. Secondly, I consider it my duty to trans-

mit that information, that up-to-date information on the state of my art, to my students and to my colleagues.

Q. Pardon me, Professor Birnbaum. Have you transmitted the information that you have received from prior meetings to your students and to your colleagues?

A. In every form I could; by word, in writing, by publications, and by using it in my own research.

Q. Are you expected to report the nature of your associations to any group other than your colleagues?

A. Before I left for the International Congress in Edin- [fol. 72] burgh, which was four years ago, a representative of the Central Intelligence Agency contacted me. We had a conference in my office. And I was asked to preserve any information I may obtain through personal contacts with participants in the Congress, in particular those from the other side of the Iron Curtain, and to bring this information back to the Central Intelligence Agency when I came back—which was the case.

Q. Professor Birnbaum, have you ever had a leave of absence from the University of Washington faculty?

A. I spent one year as visiting professor at Stamford. I spent the last year in Europe, mostly at the Sorbonne University of Paris. I was invited to teach a graduate course and otherwise conducted my research. Those are the two main one-year leaves of absence in my record.

Q. Who were your replacements at the University of Washington during your absence?

A. There was no formalized replacement when I went to Stamford. During the last year my replacement here was a mathematician from Poland who had been previously professor in Warsaw, with whom I had considerable personal correspondence previously. As a matter of fact, the correspondence began when he sent to me, as editor, a manuscript. We continued that contact that developed into more of an exchange of correspondence on our research. And I [fol. 73] was quite instrumental in his being invited to spend a year on a visiting appointment at the University of Washington.

Q. Could you describe for the Court the role that you played in bringing him here?

A. My role was that I corresponded with him. He asked me whether I knew of a possibility of obtaining a visiting appointment in the United States. After some exchange of letters I suggested that I would be away from here for a year and that would produce a vacancy which he could fill since I feel that we worked very closely. I knew the value of the man. He is the author of a rather important book and a number of research papers. I recommended that he be invited for one year's appointment. The recommendation went through the usual channels at the University of Washington and so forth. His invitation was approved and extended through the usual channels and approved by the Board of Regents. He came here and spent nine months at the University of Washington.

Q. Professor Birnbaum, do you have any duties and obligations respecting the selection of personnel for the Department of Mathematics at the University of Washington?

A. I am a member of the Personnel Committee of the Department; the Department which now has close to fifty faculty members. The Personnel Committee consists of four men who meet at irregular intervals and consider candidates [fol. 74] for staff positions for the near future, which usually means the next academic year. That means that all candidates for faculty appointments are being presented to that group. Each of them supplies their list of background, publications, research, and achievements. That is then circulated among the members of the committee who study it and at the end meet and discuss it and vote to either yes or not recommend an appointment. And in particular that happens also with visiting appointments, such as the appointment of that man who replaced me, except in this case I initiated the whole procedure introducing his candidacy.

Q. How many members are there on the Personnel Committee?

A. Four.

Q. Do you play a significant role in the selection of personnel?

A. Excuse me. The Committee or I as an individual?

Q. Do you as an individual?

A. I cast one vote of four.

Q. Do you ever initiate proceedings to bring anyone?

A. Each of us brings in names of people of whom he has heard and proposes them for appointment. But those are four people who are active in their fields and know active and promising candidates, and come in with that kind of recommendations.

Q. Has the Department of Mathematics at the University of Washington ever have visiting professors from Com-
[fol. 75] munist countries?

A. Yes. Within the last few years we had three people on long term appointments from Poland, for example, and a number of short period visitors.

Q. Do you know if any were members of the Communist Party?

A. I would have to answer the same way I did before; that I have no certain knowledge, but I assume that anybody who has a high standing in the academic hierarchy in Poland, who is a member of an academic society, who is given a passport to visit abroad, must be in good standing with his government.

Q. Would you describe for the Court the nature and extent of your associations with these visiting faculty members?

A. Well, it started by the fact that in the case of such invitations the vote to invite these people was unanimous in the Committee, since all of these men were very outstanding in their field, and it was considered extremely desirable to have them here. After they came here they were asked to teach, usually, an advanced course for graduate students in their special field, which we in the Mathematics Department thought was the very best way of utilizing the visitor for the advancement of our students. In addition to that, these men participated in research, seminars; and there was a good exchange of specialized knowledge on the up-to-date, most recent, progress in their field.

[fol. 76] Q. Did any of them teach undergraduate courses?

A. To the best of my knowledge, no. But I must admit that I don't know the teaching schedule.

Q. Did you have association with these people?

A. May I correct my statement? My memory has been refreshed. The man who replaced me taught an undergraduate course.

Q. Thank you. Did you give visiting scholars the benefit of your knowledge in the area of mathematical statistics?

A. I had conversations with them which could be so described.

Q. Have they returned to their native lands?

A. The man who replaced me stayed in this country. As a matter of fact, he decided never to return to Poland. He burned his bridges behind him. He obtained an appointment at Columbia University, and he has now a permanent appointment at the New York University. One man is still here—and I don't know the answer, whether he will return or not. Another returned to his country, to Poland.

Q. What were the factors that you and the Personnel Committee took into consideration before extending an invitation to these visiting faculty members?

A. Their performance—

Mr. Fuller: Pardon me. I want to register an objection to this question as being leading.

By Mr. Morris:

Q. Could you describe the criteria of selection that the Personnel Committee actually used when selecting these [fol. 77] visiting faculty members?

A. The dossier on each candidate for appointment contains an outline of the education of the men, a list of publications, usually an evaluation of his standing in the profession by several people who are knowledgeable in this particular field, either from our own Department or elicited from other places where experts in the same field were willing to write that kind of an evaluation. And practically without exception it was the scientific achievement and scientific standing of the candidate that was considered in extending or not extending an invitation.

Q. Do you have any knowledge of any instance in which there has been an exploration of a candidate's loyalty to the State of Washington?

A. No.

Q. Do you have any knowledge of any instance in which there has been an exploration of a candidate's loyalty to the United States of America?

A. I don't know of any preliminary exploration of that kind.

Q. Were you directed by anyone at the University of Washington to apply any such standard?

A. A matter of clarification; before the loyalty oath issue or after?

Q. Well, have you been directed by anyone at the University of Washington at any time to apply any such standard?

[fol. 78] A. I have not been expressly asked, no.

Q. In your expert opinion as a professor of mathematics and a man with wide background, would you tell us how wide a latitude of association is necessary for a professor of mathematics to enjoy in order for him to discharge his professional duties as a professor of mathematics?

Mr. Fuller: Pardon me. I will object to the form of this question as leading.

By Mr. Morris:

Q. Professor Birnbaum, could you tell us whether the execution of a loyalty oath is a necessary condition for a professor of mathematics before he is allowed to pursue his professorial duties and obligations?

Mr. Fuller: Pardon me.

Would you read back that question, please?

(Question Page 29, Line 9 read by the Court Reporter.)

The Witness: It is my understanding that if the loyalty oath is upheld, if the law prescribing the loyalty is upheld, it will become a necessary condition in the sense that anybody who will not sign the oath will be dismissed.

By Mr. Morris:

Q. Is it your professional opinion that this is a necessary condition before a person can be a teacher of mathematics and professor of mathematics?

A. It is my opinion that it is in no way a significant [fol. 79] qualification for being a good professor of mathematics.

Mr. Fuller: I didn't want to interrupt while the witness was answering the question, but I will object to the form of the question as being leading.

By Mr. Morris:

Q. Professor Birnbaum, are you familiar with a notice of May 28, 1962 from Charles E. Odegaard, President of the University of Washington?

A. I want to make sure I refer to the same notice. Yes, I am familiar with it. With one correction, it was signed by Dr. Thieme. The notice of May 28 was signed—came from the office of the President and signed by Thieme.

Mr. Morris: Will counsel agree that the May 28 notice is Exhibit B, Paragraph 63 of the Plaintiffs' complaint?

Mr. Fuller: Yes.

By Mr. Morris:

Q. Professor Birnbaum, was this notice distributed to you at the University of Washington?

A. Yes, sir.

Q. Was it distributed to all employees of the University of Washington?

A. To my knowledge, yes.

Q. Professor Birnbaum, would you outline the nature of President Odegaard's notice as it affects you?

Mr. Fuller: Pardon me. I will object to the form of this question as being leading.

By Mr. Morris:

Q. Professor Birnbaum, would you describe the notice of [fol. 80] May 28 as it affects you?

Mr. Fuller: The same objection.

By Mr. Morris:

Q. Go ahead and answer it.

A. The notice described the legal situation and stated that I will be asked to sign what is commonly referred to as the loyalty oath; and that in case of refusal I will be given a hearing and then dismissed. That summarizes the effect of the notice for me.

Q. Professor Birnbaum, is it your understanding that the President asked you to sign a loyalty oath on May 28?

A. It is my understanding that he announced that I will be asked to sign a loyalty oath in the near future.

Q. Would you tell the Court who is the head of the Department of Mathematics at the University of Washington?

A. Professor Carl Allendoerfer.

Q. Has Professor Allendoerfer in any way asked you to sign the oath referred to in the May 28 notice?

A. Yes, I received a notice of June 14, 1962, asking me to sign.

Q. What was it that he asked you to sign?

A. He asked me—which was a ditto notice, which I may read:

"The loyalty oath forms, which must be signed according to state law, are now available in Physics 245. According to the regulations from the President's office these are to be signed and witnessed by a notary before October 1.

[fol. 81] "A list of campus notaries, whose services are free, is available in our office. Please return the signed forms to the Department office at your convenience."

Mr. Fuller: Do you want to mark this as an exhibit as long as he has read it here?

The Witness: Shall I turn it over?

Mr. Morris: We will put one in later.

Mr. Furaia: Has he read the entire notice into the record?

By Mr. Morris:

Q. You have read the entire thing?

A. Yes; not the date and caption.

Q. You mentioned earlier it was June 14?

A. Yes.

Q. The other one, I think, is a nullifying notice after the temporary restraining order.

Mr. Fuller: I think we might as well read the caption and get everything on there.

The Witness: "Department of Mathematics, June 14, 1962. To all faculty, graduate assistants, and staff." That precedes the text.

By Mr. Morris:

Q. Professor Birnbaum, were you asked to sign one oath or two oaths or three oaths, or how many?

A. There are two forms of the oath, and I was asked to sign both.

Q. Have you carefully examined the oaths which you have [fol. 82] been asked to sign?

A. Yes.

Q. Would you say that you are familiar with their contents?

A. Yes.

Q. Professor Birnbaum, do you understand the oath which you are expected to sign?

A. No.

Mr. Fuller: Object to that question as being leading?

By Mr. Morris:

Q. Professor Birnbaum, what are the requirements stipulated in the oath before you affirm or swear to the contents therein?

A. The oath requires me to swear or affirm that I have read the provisions of the law printed on the reverse side thereof; that I understand and am familiar with the contents thereof. And then the oath proceeds to spell out what assertions I make.

Q. Professor Birnbaum, do you understand the oath which you are expected to sign?

A. No.

Mr. Fuller: Same objection to the question.

By Mr. Morris:

Q. Professor Birnbaum, do you understand the statutes on which these oaths are based?

A. No.

Mr. Fuller: Same objection.

By Mr. Morris:

[fol. 83] Q. Professor Birnbaum, could you describe for the Court the problems that you have in understanding this oath?

A. The provisions of the law quoted in the oath contain a number of definitions which I have great difficulty understanding. The law defines a "subversive person"; it defines a "subversive organization". The quotes are in the law. And the law defines a "foreign subversive organization". All three definitions in the law are to me very difficult to understand. A subversive person is defined as either a person who commits certain acts or a person who abets, advises, or teaches, by any means any person. Then the phrasing continues. This causes me to wonder whether one can be a subversive person by contagion; a subversive person once removed, twice removed, three times removed, removed so many times that nobody can really tell whether he was not involved in aiding, abetting, advising or teaching by any means somebody who in turn did the same thing to somebody else. Until somewhere in that sequence there was a subversive person. That is one difficulty I have in understanding.

Also I don't know what it means that I would abet, advise, or teach by any means somebody. What comes to mind are instances such as I have quoted before, cooperation in various and scientific endeavors, or help, or aid, or advice given [fol. 84] in that Congress. Similarly—well, those are my doubts in connection with the definition of subversive persons. There are similar difficulties about subversive organizations. Again, the definition starts a chain of actions by which one may get involved after a number of steps, which

I can not foresee, with something that is a subversive organization. The definition of the foreign subversive organization is so general and vague that it brings to mind the following situation: If I were elected to corresponding membership in the Czechoslovakia Academy of Sciences, I fear I would become a member of a foreign subversive organization in the meaning of the law.

Q. Professor Birnbaum,—

A. (Interposing) Those are my difficulties in understanding the provisions of the law.

Q. Professor Birnbaum, do you have a specific fear that this statute might be applied to you as you tend to understand it? I am seeking another form of question whereby we might obviate the last objection.

A. I take the matter of signing of an oath extremely seriously.

Q. I don't believe you have understood me, Professor. I wanted to know if you had any specific fear of signing this oath?

A. My specific fear would be that by signing a statement that I understand the provisions of the law, I would by this fact itself commit perjury. It is very specific.

[fol. 85] Q. Professor Birnbaum, do you take seriously the demand that you execute these oaths?

A. Very seriously.

Q. What do you mean when you say "very seriously"?

A. Very seriously because I would understand that by signing that oath I would not only assert that at the moment of signing the oaths I have not been involved in any of the activities I assert not to carry out, but I also would consider myself bound for the future not to engage in those activities. And if I were to comply with that assurance for the future, I would feel that I am very severely restricted not only in my freedom, but in performing what I consider my duty. And I would like to repeat what I said before: my duty as a citizen, as a scientist, as a teacher, as a member of the faculty of the University of Washington. I consider it my duty—and I again would like to summarize what I have said before—to keep abreast of the most recent developments in my field; to transmit them to my students and colleagues; to be able to stimulate original research

among the people with whom I am in touch here at the University of Washington and other colleagues in this country; to avoid the waste of time and effort which would be involved in duplicating research which is being carried out somewhere else; to see to it that if there is anywhere a scientific break-through I and my colleagues and people [fol. 86] with whom I keep in touch here know of it as soon as possible.

Q. Professor Birnbaum, could you sign this oath and continue in the activities which you have described here?

A. I could not.

Q. Professor Birnbaum, how many total questions are contained in this oath, do you know?

A. I don't know the answer.

Q. Professor Birnbaum, will you sign this oath?

A. No.

Q. Professor Birnbaum, could you tell the Court approximately when you received tenure at the University of Washington?

A. Approximately three years after the acting attribute was removed from my title, which means about 1943.

Q. Professor Birnbaum, could you tell the Court whether your salary is in excess of $10,000 a year?

A. It is.

Mr. Morris: Mr. Byron Coney will continue the examination.

By Mr. Coney:

Q. I will just have a few questions. Would you say, Professor Birnbaum, that mathematics is an expanding science today?

A. Very much so.

Q. Does the Soviet Union,—or do mathematicians in the Soviet Union and other Iron Curtain countries make signifi- [fol. 87] cant contributions to that science?

A. The United States and the Soviet Union are the leading countries in mathematical progress today. And some other countries behind the Iron Curtain, of those I have mentioned Poland, Hungary, Czechoslovakia, are very active also.

Q. Would you say then that contact with these people in the Soviet Union in your field is important or unimportant?

A. It is completely basic and fundamental to keeping up in my field.

Q. Would it be an advantage or disadvantage to the University here to sever contact with those people?

A. It would be a deterioration of a major caliber of the level of mathematical research here.

Q. Do you believe, Professor Birnbaum, that recruitment procedures at the University of Washington, and advancement procedures were adequate to insure that the best people were hired or advanced?

Mr. Fuller: Object to the form of the question as being leading.

By Mr. Coney:

Q. Go ahead and answer.

A. I think recruitment procedures and advancement procedures were entirely competitive with those in other state universities of comparable quality.

Q. Do you believe that the requirement of this particular loyalty oath that we have been referring to adds or detracts [fol. 88] from those recruitment and advancement procedures?

Mr. Fuller: Same objection to this question.

By Mr. Coney:

Q. Go ahead and answer.

A. It detracts immensely.

Q. In what respects?

A. It will make it impossible to invite or hire foreign citizens because of some provisions of the loyalty oath. It will make the positions on the faculty of the University of Washington appear undesirable to many scientists who are citizens of the United States but feel that the kind of scientific contacts I have described previously are indispensable to performing their duties. It will discourage candidates of that kind from either applying or accepting positions.

Q. In your experience, sir, do you believe that there is any justification for this oath?

Mr. Fuller: Objection as being leading.

The Witness: I believe there is no justification for such an oath.

By Mr. Coney:

Q. Do you believe that requiring this oath of faculty members would inflict damage on the University?

Mr. Fuller: Same objection.

The Witness: I believe that it would inflict a very serious damage to the University of Washington.

By Mr. Coney:

Q. Would you describe what that damage would be?

[fol. 89] A. The damage would be the loss of visiting faculty members and research scientists from abroad; the curtailment of exchange of information between members of the faculty of the University of Washington and scientists who by interpretation of the law may be subversive persons; by discouraging a very large number of possible new members of the faculty from coming to the University of Washington.

Q. In particular the Mathematics Department, do you feel this is true?

A. In view of what I know about the Mathematics Department and the structure of mathematics as an active science today, I think it would be emphatically true for the Mathematics Department.

By Mr. Morris:

Q. Could you execute this oath and continue to keep abreast of scientific developments in your field?

Mr. Fuller: Object to this question as being leading.

The Witness: My ability to keep abreast would be very significantly limited. The answer is no, I could not.

Q. Could you execute this oath and transmit to your students and colleagues the information that you think

essential in order to equip them under the duties and obligations that you have as a professor?

[fol. 90] Mr. Fuller: Same objection.

The Witness: My ability to do so would be significantly restricted and limited. The answer is no.

By Mr. Morris:

Q. Professor Birnbaum, in light of your past testimony, could you execute this oath and assimilate the up-to-date research which is being done both in this country and in the Soviet Union?

A. My ability to assimilate original and up-to-date research would be significantly limited. The answer, with that explanation, is no.

Mr. Morris: That is the extent of our questions, Mr. Fuller.

Cross examination.

By Mr. Fuller:

Q. Professor Birnbaum, have you ever signed an oath for the University of Washington?

A. Yes, I have.

Q. And when did you sign that oath?

A. To the best of my recollection immediately preceding my first appointment in 1939.

Q. Have you signed any oath subsequent to that time?

A. At the University of Washington?

Q. At the University of Washington, yes.

A. I am almost sure I have not. I have to make that qualification.

[fol. 91] Q. When had you planned to leave for the Congress which you described?

A. I have an appointment with the Office of Naval Research in Washington, D. C. on Wednesday, July 12, and my travel papers assign me to a military air transport plane out of Baltimore on the afternoon of Wednesday July 12. I have travel orders to board the plane on July 11. I have an appointment with the Office in the morning and I fly off in the afternoon of the same day, July 11.

Q. When will you return to the United States?

A. Around September 10.

Q. Now, if you were not to make the trip, your position with the University of Washington would in no way be in jeopardy; is that correct?

A. In no way in jeopardy.

Q. Actually, so far, Professor Birnbaum, you haven't really refused to sign the oath. You have until October 1st?

A. That is correct, yes.

Q. Now, there is one thing I wish to ask you about in your complaint. Perhaps before I ask this question I should state for the record that at the time of trial we intend to object to this line of testimony as being irrelevant. But I do wish to ask certain questions in the event the testimony is admitted, so that our questions will be admitted along with the testimony.

[fol. 92] Mr. Morris: Could I ask which line of testimony you are referring to?

Mr. Fuller: The entire line of testimony except for his position. We stipulated as to the position he holds in the University.

Mr. Coney: The deposition is taken pursuant to the Federal Rules and that preserves your rights.

Mr. Fuller: I wish to make the statement on the record.

Q. Professor Birnbaum, in your Complaint you have alleged that the Defendants concede the oath serves no useful purpose; and that it does in fact inflict wide-spread damage; and that the requiring of the oath from you among other plaintiffs is only because they believe the statute requires them to. Would you tell me what you base this upon, please?

A. I have heard of such statements being made by members of the administration. But I would rather refer to counsel because I personally—I as an individual have no direct knowledge of that opinion of the Defendants.

Q. That includes all of the Defendants, right? You have no knowledge?

A. No direct knowledge from direct conversation with anyone of the Defendants that this is their opinion.

Q. Have you ever seen any statements signed by any of [fol. 93] the Defendants which would give you grounds to so allege in your Complaint?

A. I have not seen such a statement by the Defendants.

Q. Then the allegation is made on the basis of hearsay, is that correct?

Mr. Coney: I object to that question. You can't ask the layman whether something is hearsay or not.

By Mr. Fuller:

Q. Let's say on the basis of what others have told you, other than the Defendants.

Mr. Coney: Again that is a question he has already answered. He has told you where he got the information and what the extent of it is.

By Mr. Fuller:

Q. Go ahead and answer that, if you will, Professor. Then you can maintain your objection.

A. It has been accepted as common knowledge among the faculty that this is the opinion of the Defendants. But I can only repeat that I have neither heard it directly from any of the Defendants or seen a written statement signed by any of the Defendants.

Q. You cannot refer to any specific fact or statement upon which this so-called common knowledge would be based; is that correct?

A. I am not stalling. I am trying to recall. I have been told by various people who spoke to top members of the [fol. 94] University Administration, and reported to have heard such statements. I cannot recollect at this moment the names of the people who told me so.

Q. Do you recall whether the people referred to by these people were among the Defendants in this lawsuit?

A. Well, I will run through the list of Defendants. No, I cannot recall.

Q. Also in the Complaint you stated: "But for the mandatory nature of the statute Defendants would not require such an oath inasmuch as Defendants believe as Plaintiffs

do, and it is a fact, that existing recruitment and promotional procedure at the University is already adequate to protect legitimate public interest without the necessity of the oath." Now, bearing in mind this portion of the allegation, would you tell us what sort of a check there is other than the oath in connection with the Personnel Committee you serve on, as to whether an individual belongs to a subversive organization?

A. There is an attempt to assemble as much information as one can on the personal history; on the family situation; on the education and the background of the candidate for appointment. There is, as far as the Personnel Committee is concerned, no specific effort directed at uncovering whether a candidate is a member of whatever may be defined as a subversive organization.

[fol. 95] Q. The next question relates to a statement which you made during your testimony. I believe you said that it was your understanding that if you refused to sign the oath that the result would be a hearing then dismissal. Now, directing your attention to this statement of yours, which I have tried to state as well as I could from recollection—I made notes at the time, but I won't say the words were in exactly that order, but that is the essence of what you said—on what do you base the latter part of your statement; the statement that after your hearing dismissal would follow?

A. Well, on the very last paragraph of the notice, of the printed notice from the office of the President, dated May 28, 1962. Pardon me. I would like to extend it. The entire statement between—on the second page, beginning, "If any member of the faculty . . .", and so on.

Q. Now, which particular part of this, Professor, leads you to believe that your dismissal as the result of the hearing would be automatic?

A. I don't think I said "automatic". I think a hearing will be granted. But my understanding of this statement of the regents quoted in the notice of the 28th of May, my understanding is that a hearing would only have one possible issue under consideration: Has the faculty member with tenure violated the provisions of the law which says [fol. 96] that if he violates it, namely by refusing to sign,

he must be dismissed. There is no other issue possible for consideration at that hearing.

Q. Your opinion, then, is based solely upon this printed document and nothing else?

A. Upon reading of the statement, yes.

Q. Do you think that it would be consistent with this statement for a hearing to be held and for you to state before the Hearing what you have stated today; for the Hearing Board Members to agree with you that it might be difficult for you to sign the oath under those circumstances and agree to retain you without your signing the oath? Do you think that is at all a possible result of the statement you have referred to?

A. I do not think that this statement leaves that latitude.

Q. You are a citizen of the United States, aren't you, Professor?

A. Yes.

Q. Now, referring to the statement that you read into the record by Professor Allendoerfer, it is your understanding, isn't it, Professor, that nothing that was in the Allendoerfer communication derogates in any way what was in the May 28 communication; isn't that correct?

A. That is correct.

Q. Now, referring to the exchange professor or the visit-[fol. 97] ing professor—I am not sure of his title—who took your place while you were away, do you know whether the source of his funds were from State sources or Federal sources, or do you know?

A. I am almost sure it was from State funds, but I am not quite sure.

Q. Referring to your membership in these various professional organizations, would it be fair, Professor Birnbaum, to say that on the whole your membership and activities in these organizations are a benefit to the State and to the United States of America rather than a detriment?

A. I should like to say yes.

Q. Are you encouraged to belong to these organizations by the State Department or any other branch of the Federal Government?

A. I think that the support that the Federal Government is giving to my activities implies encouragement to do what I have been doing.

Q. Now, at the conclusion of this deposition, Professor Birnbaum, you will, I understand, give your itinerary to counsel so in the event we have written interrogatories it would be possible for you, from abroad, to comply with these and to mail them back, is that correct?

A. I will give an itinerary as soon as it will be established, which will be within a day or so.

[fol. 98] Q. Thank you.

Professor Birnbaum, in view of the fact that you have signed an oath which was required by the 1931 Statute, am I right in thinking that your objection is solely to the oath required by the 1955 Statute?

Mr. Coney: Excuse me. If I remember what Professor Birnbaum said, he didn't say he signed the oath required by the 1931 Statute. All he said was that he signed an oath in 1939, without mentioning pursuant to what that oath required or what that oath contained.

By Mr. Fuller:

Q. You can answer the question.

I appreciate that, but I think—

Mr. Coney: You recited his testimony erroneously, though.

Mr. Fuller: Read back the question on that.

(Question Page 49, Line 2 read by the Court Reporter.)

Mr. Fuller: Let the question stand.

The Witness: I have stated that I have signed an oath immediately preceding my original appointment to the University of Washington in 1939. I do not recall the precise wording of that oath, and it would be difficult for me at this time to say whether, if I were to look at it today with my experience and my professional activities of today, I would consider it objectionable or not.

[fol. 99] By Mr. Fuller:

Q. You have no recollection at all as to the form of that oath then?

A. I have a very faint recollection, not good enough to be able to answer; to give a specific answer.

Q. To the best of your recollection, acknowledging the fact that it is a faint recollection, what do you recollect that it concerned?

A. I think I can answer that question. I think that it was a fairly general statement of allegiance to the Constitution of the United States and to the State of Washington, and that I asserted in that oath to support and obey the laws of the United States and of the State of Washington. And that kind of a statement I would not object to today. But this is only a vague recollection of the wording of the oath.

Q. Now, you have had some security clearances by the United States Government, isn't that correct?

A. Yes, I have.

Q. And what sort of clearances have you had?

A. My present work with the Office of Naval Research is unclassified, requires no clearance. I have been cleared, last time to my recollection, by the Naval Ordnance Test Station at China Lake. And I think it was clearance on the Confidential level, but I am not completely sure.

Q. Did you ever fill out any statement or oath for the [fol. 100] United States Government in connection with these clearances?

A. I am sure I did fill in a lengthy statement which had to be notarized, which was signed under oath, yes.

Q. Do you recall if there was any question as to any organizations to which you belonged in the past or at the time of your signing of the oath?

A. To my recollection I had to state a list of organizations to which I belonged at that time, yes.

Q. Do you recall if the list was a so-called United States Attorney General's list?

A. It was not a list that was presented to me. There was a blank space in which I was to enter all the organizations to which I belonged. It was up to the Security Officer evaluating the form to form his opinion on the quality of those organizations.

Q. Aside from the oath which you signed shortly after accepting employment with the University of Washington, have you signed any other similar oath since then, except

for the matter you just referred to in your Government clearance?

Mr. Coney: Objection. Do you mean by the University or Federal Government?

Mr. Fuller: By anyone.

The Witness: I have made a number of statements under oath, for example whenever I applied for a passport.

By Mr. Fuller:

Q. Anything else?

[fol. 101] A. Not to my recollection.

Mr. Fuller: That is all, counsel.

Redirect examination.

By Mr. Morris:

Q. I have a few more questions I would like to ask you, please.

Do you know what the penalty is for filing a false oath?

Mr. Fuller: Read the question, please.

(Question Line 5 read by the Court Reporter.)

The Witness: I know what the penalty is for committing perjury, which is a very serious criminal offense.

By Mr. Morris:

Q. Is it your understanding that in light of your past and anticipated activities that you might run a risk of a perjury conviction were you to sign this oath?

Mr. Fuller: Objection as leading.

The Witness: Am I directed to answer?

Mr. Morris: Yes.

A. Yes, I understand so.

Q. Professor Birnbaum, given the penalty for filing a false oath would you be willing to run the risk of signing the oath that is required of you?

Mr. Fuller: Objection as leading.

By Mr. Morris:

Q. Would you answer?

A. The answer is no.

Q. What would be your reason for answering that way? [fol. 102] A. Signing the oath, with the understanding of its provisions as I have it now, would in my opinion amount to signing a false statement under oath. I do not wish to commit perjury. And regardless of the legal consequences I take an oath extremely seriously, and I would not want to take a false oath.

Q. What do you mean that you do not want to take a false oath?

A. It is a matter of conscience and nothing else.

Q. Do you feel that you understand this oath well enough to be able to tell whether you would be taking a false oath?

Mr. Fuller: Objection as being leading.

The Witness: I do not understand the wording of the oath well enough, and I feel that signing it would put me in a position where it would be quite likely that I would be committing perjury.

Q. What makes you say that you might perhaps be committing perjury?

A. The fact that I do not understand the oath is one. At the same time, since I do not understand it, there may be some interpretations of the oath according to which I may be submitting a false assertion under oath. There may be other interpretations in which my assertions would be true, but there is a risk of making false assertions under that oath.

By Mr. Morris:

Q. Professor Birnbaum, you testified earlier as to alter- [fol. 103] native ways which might be present at the University of Washington to check on the employe's loyalty other than a loyalty oath. Could you repeat, please, the alternative methods which you know to be in existence at the University of Washington other than the loyalty oath?

A. Well, the Tenure Committee as established by the Code could be called upon to inquire into the behavior, ac-

tivity, performance, of a faculty member, and could for a number of different reasons listed in the tenure provisions of the Code rule his dismissal.

Q. In your experience at the University of Washington have such hearings ever been held by the Tenure Committee?

A. Yes, they have.

Q. Could you describe these briefly for the Court?

A. They came as a consequence of what was known as the Campbell Committee Hearings. At that time evidence was brought up by the Committee, headed by Mr. Campbell, that some members of the faculty had been members of the Communist Party. That evidence was brought before the Committee of the Faculty. Recommendations were formulated by the Tenure Committee after very careful study and acting on those recommendations the then President of the University of Washington, to my recollection with the approval of the Board of Regents, ruled dismissal of those faculty members.

Mr. Morris: I have no further questions.

[fol. 104] Recross examination.

By Mr. Fuller:

Q. When was the last time you applied for a passport, Professor Birnbaum?

A. Less than a month ago.

Q. And did you apply before that time for a passport also?

A. For a renewal of a passport about three years before.

Mr. Fuller: That is all we have.

Mr. Morris: Counsel for Plaintiffs have no further questions.

Is it agreeable with counsel for Defendants, and the witness, Professor Birnbaum, that we waive the subsequent reading and examination of the deposition, as well as the subsequent signing of it by Professor Birnbaum, for the reason that he will be leaving Seattle and will not be present for the purpose of reading the deposition and signing it?

Mr. Fuller: No, that is not acceptable. We won't stipulate to that.

Mr. Coney: Professor Birnbaum, are you willing to waive signature of your deposition?

The Witness: I am willing.

Mr. Coney: That is it.

(Deposition concluded.)

[fol. 105]

CERTIFICATE

State of Washington,
County of King, ss.:

I, Louis R. Guevara, Court Reporter and Notary Public in and for the State of Washington, residing at Bellevue in said County and State, do hereby certify:

That the annexed and foregoing deposition upon oral examination of the witness, William Z. Birnbaum, appearing at the instance of the Plaintiffs, was taken before me and reduced to typewriting under my direction at Seattle, King County, Washington, on July 5, 1962, being completed on said day;

I further certify that the said witness waived the reading and signing of his deposition after the same was fully transcribed;

I further certify that I am not a relative or employee or attorney or counsel of any of the parties to said action, or a relative or employee of any such attorney or counsel, and that I am not financially interested in the said action or the outcome thereof;

I further certify that the above named witness, before examination, was by me duly sworn to testify the truth, the whole truth and nothing but the truth;

I further certify that said deposition upon oral examination, as above transcribed, is a full, true and correct tran-[fol. 106] script of the testimony of said witness, including questions and answers, and all objections, motions and exceptions of counsel made and taken at the time of the foregoing examination;

I further certify that I am herewith securely sealing said deposition in an envelope with the title of the above cause thereon, and promptly delivering the same to the Clerk of the above-entitled court.

In Witness Whereof, I have hereunto set my hand and affixed my seal this 17th day of July, 1962.

Louis R. Guevara, Notary Public in and for the State of Washington, residing at Bellevue.

[fol.107] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

NORTHERN DIVISION

No. 5598

[Title omitted]

ANSWER—Filed July 19, 1962

Defendants, for answer to plaintiffs' complaint, admit and deny the various paragraphs thereof as follows:

1. Deny paragraph 1, but admit that plaintiffs may be relying on these specific statutory and constitutional provisions.

2. Admit the first two sentences of paragraph 2 but deny the third sentence because of lack of knowledge.

3. Admit paragraph 3.

4. Deny paragraph 4.

5. Deny paragraph 5.

6. Admit paragraph 6.

7. Admit paragraph 7.

8. Admit paragraph 8.

9. Admit paragraph 9.

10. Admit paragraph 10.

11. Admit paragraph 11.

12. Deny paragraph 12.

13. Deny paragraph 13.

14. Admit paragraph 14.

15. Admit paragraph 15.

16. Admit paragraph 16.

17. Admit paragraph 17.

18. Admit paragraph 18.

19. Deny paragraph 19.

20. Admit paragraph 20.

21. Admit paragraph 21.

[fol. 108] 22. Admit paragraph 22.

23. Admit paragraph 23.

24. Admit paragraph 24.

25. Admit paragraph 25.

26. Admit paragraph 26.

27. Admit paragraph 27.

28. Admit paragraph 28.

29. Admit paragraph 29.

30. Admit paragraph 30.

31. Deny paragraph 31.

32. Deny paragraph 32.

33. Admit the first sentence of paragraph 33 but regarding the truth of the second sentence, allege that they are without knowledge or information sufficient to form a belief.

34. Admit paragraph 34.

35. Admit paragraph 35.

36. Deny paragraph 36.

37. Admit paragraph 37.

38. Admit paragraph 38.

39. Admit paragraph 39.

40. Admit paragraph 40.

41. Admit paragraph 41.

42. Admit paragraph 42.

43. Admit paragraph 43.

44. Admit paragraph 44.

45. Admit paragraph 45.

46. Admit paragraph 46.

47. Deny paragraph 47.

48. Admit paragraph 48.

49. Admit the first sentence of paragraph 49. Allege that they are without sufficient knowledge or information to form a belief as to whether he is a citizen of Australia. Deny [fol. 109] that he is "Acting" Executive Officer of the Anthropology Department.

50. Admit paragraph 50.

51. Admit paragraph 51.

52. Admit paragraph 52.

53. Admit paragraph 53.

54. Admit paragraph 54.

55. Admit paragraph 55.

56. Admit paragraph 56.

57. Deny paragraph 57.

58. Admit paragraph 58.

59. Admit the first two sentences of paragraph 59. Deny the third sentence as phrased.

60. Admit paragraph 60.

61. Admit the first two sentences of paragraph 61 but deny the third sentence as phrased.

62. Deny the first sentence of paragraph 62; admit the second, third, and fourth sentences of paragraph 62. Deny the fifth sentence of paragraph 62. Admit the sixth sentence of paragraph 62. Deny the seventh sentence of paragraph 62. Admit the eighth sentence of paragraph 62.

63. Admit paragraph 63.

64. Deny paragraph 64.

65. Deny paragraph 65.

66. Deny paragraph 66.

67. Deny paragraph 67.

68. Allege that they lack sufficient knowledge and information to form a belief as to the truth of the first sentence of paragraph 68. Deny the remainder of paragraph 68.

69. Deny paragraph 69.

70. Deny paragraph 70.

71. Deny paragraph 71.

72. Deny paragraph 72.

[fol. 110] 73. Deny paragraph 73 as phrased.

74. Deny paragraph 74.

75. Deny paragraph 75.

76. Allege that with regard to the truth of the first sentence, they lack sufficient knowledge and information as to form a belief. Admit the second sentence. Deny the third and fourth sentences.

77. Deny paragraph 77.

78. First Defense

That the judgments and decisions referred to by plaintiffs in paragraph 62 of their complaint are res judicata as to the defendants and the plaintiffs with tenure in the present action.

79. Second Defense

That not one plaintiff has in fact refused to take the oath; that the bringing of the present action is premature.

80. Third Defense

That there is no justiciable controversy between the plaintiffs and the defendants.

Wherefore, defendants pray that the court dismiss plaintiffs' complaint with prejudice, declare the statutes attacked constitutional, deny the prayer for an injunction and award the defendants their costs.

Herbert H. Fuller, Attorney for Defendants, Deputy Attorney General, 216 Norton Building, Seattle 4, Washington.

Proof of service (omitted in printing).

[fol. 111] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT

WESTERN DIVISION OF WASHINGTON

NORTHERN DIVISION

No. 3598

[Title omitted]

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[fol. 113] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

NORTHERN DIVISION

No. 5598

[Title omitted]

PRETRIAL ORDER—August 30, 1962

As the result of the pretrial conference heretofore had, whereat the plaintiffs were represented by Arval Morris, Kenneth A. MacDonald and Byron D. Coney, and the defendants by John J. O'Connell and Herbert H. Fuller, their attorneys of record, the following issues of fact were framed and exhibits identified:

Jurisdiction

1. Jurisdiction is vested in this court by virtue of the fact that this is a civil action in which the matter in controversy arises under Section 1 of the Fourteenth Amendment to the United States Constitution, and under Article 1, Section 10 of the United States Constitution, and allegedly exceeds the value of $10,000 exclusive of interest or costs. Likewise this is a civil action to redress the alleged deprivation under color of State law of rights, privileges and immunities guaranteed by the United States Constitution. Jurisdiction is founded in 28 U.S.C. Sections 1331 and 1343 (3) and 42 U.S.C. Section 1983.

Admitted Facts

The following facts are admitted by the parties and may be received into evidence without objection:

1. The University of Washington is one of two state universities and is primarily located in Seattle, Washington. It is wholly owned and operated by the State of Washing-

ton. It employs many thousands of persons and offers academic, scientific and professional education in numerous fields to more than 25,000 persons annually. Through its professors and other teaching personnel it engages in the [fol. 114] instruction of students and in research.

The total budget of the University of Washington for the biennial years of 1961-1963 amounted to $99,996,000.00. This sum of money was derived from several sources. The following figures have been rounded off; hence, they will not total 100% exactly. The legislature of the State of Washington provided 55.9% or $55,908,000.00. In recent years, the percentage share of funds coming from the state legislature has been decreasing. The second largest percentage is 21.1% or $21,118,000.00 entitled "research grants." The source of these funds is primarily from the federal government and private contract research. In recent years, their percentage share of the total budget has been increasing. The remaining budgetary items are: 5.6% of the budget or $5,537,000.00 of teaching hospital income; 7.2% or $7,183,000.00 from self-sustaining auxiliary enterprises, e.g., evening class program, dormitories, etc.; the University of Washington Press is included in this category but it is not completely self-sustaining; 6.5% or $6,526,000.00 from student tuition, fees and charges; 2.5% or $2,500,000.00 from contract research overhead; .9% or $881,000.00 from Department Sales and Services; .3% or $342,000.00 from other miscellaneous income.

The University of Washington is older than the State of Washington. The University was organized in 1861. The Territory of Washington became a state in 1889. Prior to its admission as a state, the governmental powers exercised by the Territory of Washington were founded upon the Federal Act establishing the Territorial Government of Washington; see 10 Stat. 172. When the State of Washington was admitted to the Union in 1889, the governmental powers were transferred from the Territorial to the State government.

The Washington Constitution provides the present constitutional basis for the University of Washington in Article 13, relating to state institutions:

"Educational, reformatory and penal institutions, those for the benefit of blind, deaf, dumb . . . and such other [fol. 115] institutions as the public may require shall be fostered and supported by the State, subject to such regulations as may be provided by law. The regents . . . of all such institutions existing at the time of the adoption of this Constitution . . . shall be appointed by the Governor, by and with the advice and consent of the Senate . . ."

The University of Washington is presently divided into the several schools and colleges, listed below, and offers programs leading to degrees in specific fields:

1. The Graduate School;
2. The College of Architecture and Urban Planning;
3. The College of Arts and Sciences;
4. The College of Business Administration;
5. The College of Education;
6. The College of Engineering;
7. The College of Fisheries;
8. The College of Forestry;
9. The School of Nursing;
10. The College of Pharmacy;
11. The School of Social Work;
12. The School of Librarianship;
13. The School of Law;
14. The School of Medicine;
15. The School of Dentistry.

[fol. 116] *The Graduate School*

The Graduate School of the University of Washington is administratively in charge of graduate study in whatever division of the University such study is undertaken. This

involves the supervision of student programs which go beyond formal undergraduate work or work of the professional schools into areas of advanced training, research, and scholarship.

Programs for the master's and doctor's degrees are offered in fifty-eight departments within twelve schools and colleges in the University. The graduate faculty is composed of faculty members in these divisions who are engaged in graduate instruction or in directing the research of graduate students.

The Graduate School is administered through the Office of the Dean, the Executive Committee of the Graduate School, Group Operating Committees, and the Graduate Faculty Council. The Graduate Faculty Council is composed of representatives elected to eight Group Operating Committees by the departments and colleges that offer graduate work and it serves as the legislative and policy-making body of the graduate faculty. The Executive Committee consists of the Dean of the Graduate School and the elected chairman of each of the eight group Operating Committees; it acts as an advisory group to the Dean and as an administrative committee for the Graduate Faculty Council.

Research is of particular concern to the Graduate School, and instruction at the graduate level is largely guidance in research. Almost every phase of the graduate student's career is dominated by the research ideal; his thesis is an exercise in research; he acquires languages as research tools; his seminars are for training in research methods; and he obtains the doctor's degree for demonstrated proficiency in research.

The volume of research activity at the University is impressive and adds the richness of graduate instruction and study. Through contract research, for both private sources and government agencies, the work of the University has [fol. 117] been greatly expanded. This work not only brings greater research results but also provides more opportunities for the training and support of future scholars.

The administration of research interests in the Graduate School is carried out through the assistance of a special

research committee, appointed by the Dean, which reviews proposals for research support, formulates regulations concerning personnel and the use of funds, and stimulates interest in investigative activities. It advises on expenditures from the Initiative 171 Fund, which helps to support research in medicine and biology, and from the Research Fund of the Graduate School, which supports research primarily in the fields of the arts, humanities, and social sciences.

The Agnes H. Anderson Research Fund for the support of creative research was formed from the proceeds of a very generous gift donated by two anonymous friends of the University. Accepted by the Board of Regents in 1943, the fund is named in memory of the donor of Alfred H. Anderson Hall and the Agnes Healy Anderson Forestry Trust Fund. The selection of research projects and allocation of funds for their support are recommended to the President of the University by the Dean of the Graduate School after consultation with a committee of the University Research Society.

The Friday Harbor Laboratories, the marine laboratories of the University of Washington, are administered by the Dean of the Graduate School. The staff of the Laboratories is made up of professors from various Departments of the University (Botany, Fisheries, Meteorology, Oceanography, and Zoology) and visiting professors from other institutions.

The Friday Harbor Laboratories are located approximately eighty miles north of Seattle near the town of Friday Harbor on San Juan Island. This island is one of the largest of the 172 which make up the San Juan Archipelago located in the northwest section of the state of Washington between Vancouver Island and the United States mainland.

The islands of the San Juan Archipelago are, in general, rocky, wooded, and with precipitous shores. Many are [fol. 118] deeply indented by narrow, fjord-like inlets. They have been strongly glaciated leaving valleys filled with drift and occasional lakes, swamps, and sphagnum and peat bogs. The Laboratories are located on a state game preserve of 484 acres of wooded land with about two miles of shore

line. This is an admirable location for the study of various aspects of marine science and for many types of investigations.

Within a relatively short distance from the Laboratories are sea waters varying from oceanic to those highly diluted by streams, with depths to 1,000 feet, bottoms varying from mud to rock, and water movements ranging from those of quiet bays and lagoons to those of swift tideways.

The waters about the San Juan Archipelago have exceptionally abundant and varied marine flora and fauna. The area is rich in both phytoplankton and zooplankton. Brown, green, blue-green, and red algae are present in quantity.

Representatives of all major and most minor phyla of invertebrates can be collected within a reasonable distance from the Laboratories. Shore collecting and dredging in the many diverse ecological situations provide an abundance of forms for ecological, experimental, morphological, and systematic work.

The biological laboratory buildings are provided with aquaria and running sea water supplied through either polyethylene or glass pipes and fittings which deliver water free from metallic contamination.

During the summer the Laboratories offer an opportunity for independent and supervised research as well as a varied program of instruction primarily for graduate students (exceptional, advanced undergraduates are occasionally admitted). The program of courses usually includes work in algology, oceanographic meteorology, oceanography, invertebrate zoology, invertebrate physiology or embryology. Throughout the year, the use of the facilities of the Laboratories for research in various areas of marine science is encouraged.

The University of Washington Board of Regents, in January, 1958, established the Laboratory of Radiation [fol. 119] Biology to expand University studies of the biological effects of atomic radiation. (The Laboratory absorbed and supplanted the Applied Fisheries Laboratory established in 1943.) The Laboratory is a division of the Graduate School.

The program is planned to meet the need for trained specialists in the field of radiation biology, in which the

physical and biological sciences join forces to combine the skills of the two areas of learning.

Graduate students wishing to enter the field of radiation biology should hold degrees in the biological sciences with supporting course work in physics, chemistry, and mathematics, or in the physical sciences of chemistry or physics with supporting courses in the biological sciences.

A research training program, which is integrated with the courses in radiation biology, is carried on by the Laboratory of Radiation Biology, under contract with the Atomic Energy Commission, at the Pacific Proving Ground, the Fern Lake Research Station, and in the laboratories at the University of Washington.

The Research Computer Laboratory, established in September, 1956, as an agency of the Graduate School, provides electronic calculating facilities and auxiliary punched-card equipment for use by faculty and research personnel of the University. The facilities of the Research Computer Laboratory are also available to neighboring institutions which do not have their own computers.

The IBM 650 is now operated as the chief facility of the Laboratory. The University plans, however, to expand the facilities to include an IBM 704 Computer and necessary auxiliary equipment.

The Research Computer Laboratory is administered by a faculty advisory committee under the chairmanship of the Dean of the Graduate School.

One of the newest facilities available for study through the University of Washington is the Center for Graduate Study at Hanford, located at Richland, Washington. Formerly the General Electric School of Nuclear Engineering, the operation of the School was assumed by the University July 1, 1958. It is administered by the Graduate School at [fol. 120] the University of Washington in Seattle.

The School serves the professionally trained people working at the Hanford Atomic Products Operation and in the general area, who wish to obtain advanced degrees. In addition to the courses which have been offered in previous years, the University will broaden the programs to approximate more closely the advanced degree programs available on the Seattle campus. Currently upper-division and gradu-

ate-level courses are available in business administration, chemistry, mathematics, physics, radiology, and in chemical, electrical, mechanical and metallurgical engineering. Classes at the Center are presently held only in the evening and most of the students and staff are employees of the Atomic Energy Commission's prime contractor, the General Electric Company. As the program is expanded, greater utilization will be made of the Hanford facilities and faculty members from the University and other institutions.

The University of Washington Press, a division of the Graduate School, is the publishing arm of the University. It publishes scholarly books of both specialized and general interest, and original works in the arts, whether written by members of the faculty or by qualified persons outside the University. It also handles textbooks and the publications of certain University laboratories and bureaus. The Press manages all details of editing and design of its products, and buys its printing and binding on a contract basis.

The Administrative Committee of the Press assists the Dean of the Graduate School in general administration of the Press. This Committee also screens the manuscripts offered to the Press and recommends to the Publications Council selected manuscripts for publication. The Publications Council passes upon the recommendations of the Administrative Committee and promotes the interests of the Press. Individually, the members of the Council represent the various publishing interests of the University and encourage their colleagues to submit manuscripts to the Press.

The Walker-Ames Fund was founded in 1931 by Maud Walker and her husband, Edwin Gardner Ames. Its purpose was to enable the University of Washington "to guarantee to the State of Washington the scholarly and educational services of the most distinguished minds available in this and other countries . . ." Since the first Walker-Ames visiting professor was appointed in 1936, well over one hundred notable scholars have come to the University as temporary members of the faculty and have enriched the intellectual life of the University community.

[fol. 121]

In 1956 there was created within the Walker-Ames Fund an annual All-University Lectureship designed to bring to

the campus each year, for a single lecture, a person equipped by experience and learning to discuss a topic of importance to modern society.

The Graduate School offers programs leading to the master's degree through the following schools and colleges: *Architecture and Urban Planning; Arts and Sciences:* anthropology, art, botany, chemistry, classics, communications, drama, economics, English (including general and comparative literature), Far Eastern and Slavic languages and literature, geography, geology, Germanic languages and literature, history, home economics, mathematics, meteorology and climatology, music, oceanography, philosophy, physical education, physics, political science (including public administration), psychology, Romance languages and literature, Scandinavian languages and literature, sociology, speech, and zoology; *Business Administration; Dentistry; Education; Engineering:* aeronautical, chemical, civil, electrical, mechanical, and mineral engineering; *Fisheries; Forestry; Librarianship; Medicine:* anatomy, biochemistry, microbiology, pharmacology, physiology and biophysics, and surgery; *Nursing; Pharmacy;* and *Social Work.* An interdepartmental program in *Linguistics* is administered by a special committee.

Programs leading to the Doctor of Philosophy degree are offered through the following schools and colleges: *Arts and Sciences:* anthropology, botany, chemistry, economics, English (including general and comparative literature), Far Eastern and Slavic languages and literature, geography, geology, Germanic languages and literature, history, mathematics, meteorology and climatology, music, oceanography, [fol. 122] philosophy, physics, political science, psychology, Romance languages and literature, sociology, speech, and zoology; *Education; Engineering:* aeronautical, chemical, civil, electrical, and mechanical engineering; *Fisheries; Forestry; Medicine:* anatomy, biochemistry, microbiology, pharmacology, and physiology and biophysics; and *Pharmacy.* An interdepartmental program in *Linguistics* is administered by a special committee.

A program leading to the degree of Doctor of Business Administration is offered through the College of Business Administration. This is a professional degree primarily for students preparing for teaching and research positions in

business administration and for administrative and policy-making positions in business.

A program for the degree of Doctor of Education, a professional degree primarily for teachers and school administrators, is offered through the College of Education.

To qualify for a master's degree, the candidate must meet these requirements:

1. Present at least 27 credits of course work successfully completed. Half of the work for the master's degree, including the thesis, must be in courses numbered 500 and above.

2. Present a minimum of three full-time quarters of residence credit. (Part-time quarters may be accumulated to meet this requirement.)

3. Present a certificate of proficiency in a foreign language (unless specifically excepted for a particular degree).

4. Prepare a thesis which is approved by the department (unless specifically excepted in a particular program). Credit for the thesis ordinarily should be one-fourth of the total credit for the degree. Students must register for thesis. The number of credits indicated in such registration should be the proportion of the normal load which the student is devoting to the thesis. The thesis should be evidence of the candidate's ability to do independent investigation and to present the results in clear and systematic form.

5. Satisfy any additional requirements the major department imposes.

[fol. 123] While every candidate is expected to take some work outside his major department, the major department determines the requirements for supporting courses and should consult with the minor department in planning requirements for the minor.

The doctor's degree is by nature and tradition the highest certificate of membership in the academic community. As such it is meant to indicate the presence of superior qualities of mind and intellectual interests and of high attainments in a chosen field. It is not conferred merely as a certificate to a prescribed course of study and research, no matter how long or how faithfully pursued. All require-

ments and regulations leading to the doctor's degree are devices whereby the candidate may demonstrate his present capacities and future promise for scholarly work.

In order to qualify for the doctor's degree, the candidate must meet the following minimum requirements:

1. Complete a program of study and research as planned by the major department or college, of which half, including the thesis, must be in courses numbered 500 or above.

2. Present a minimum of three academic years of resident study, two of them at the University of Washington with at least one year in continuous full-time residence. (The continuous year may be satisfied with three out of four consecutive full-time quarters.)

3. Demonstrate a reading knowledge of two foreign languages related to the major field of study. (Language requirements for the Doctor of Business Administration and the Doctor of Education degrees are slightly different.)

4. Prepare a thesis which is a significant contribution to knowledge and which clearly indicates training in research. Credit for the thesis ordinarily should be one-third of the total credit for the degree.

5. Pass creditably a general examination in the major field and, when a part of the program, in the minor field or supporting courses.

6. Pass creditably a final examination, which is usually devoted to the thesis and the field with which it is concerned.

[fol. 124] While every candidate is expected to take some work outside his major department, the department itself determines the requirements for minors and supporting courses.

Not later than the end of the second year of the student's graduate work, the major department will request the Graduate School to appoint a supervisory committee, which will include a graduate faculty representative, to assume general sponsorship of the prospective candidate. At the end of two full years of graduate study as approved by the major department, and after a successful demonstration of

proficiency in two foreign languages, the chairman of the supervisory committee may present to the Graduate School for approval a warrant permitting the student to take the general examination for admission to candidacy. This is taken by the Graduate School to mean that, in the opinion of the committee, the student's background of study and preparation is sufficient to justify his undertaking the examinations. No student is regarded by the Graduate School as a candidate for the doctor's degree until after the warrant certifying the successful completion of the general examinations has been filed with the Graduate School Office by the chairman of his supervisory committee. After his admission to candidacy, the student ordinarily devotes his time to the completion of his research work as embodied in the thesis, and to preparation for his final examination.

The candidate must present a thesis representing original and independent investigation; it should reflect not only his mastery of research techniques but also his ability to select an important problem for investigation and to deal with it competently.

When the supervisory committee believes that the doctoral candidate is prepared to take his final examination, the Graduate School is asked to designate a thesis-reading committee from among the members of the supervisory committee. Using forms provided by th Graduate School, the reading committee prepares a report briefly summarizing the distinctive work of the thesis, the methods used, and the results. If the report is favorable and is presented to the [fol. 125] Graduate School two weeks before the final examination date, and if the candidate has met all other requirements, a warrant authorizing the final examination is issued by the Graduate School.

The thesis report is not binding upon the examining committee, but is intended to insure that, except for minor alterations, the dissertation is ready for final presentation. The Graduate School returns the thesis report to the supervisory committee together with the warrant for the final examination, and upon approval by the examining committee at the time of the final examination, it is bound with the dissertation.

If the final examination is satisfactory, the supervisory committee signs the Graduate School's warrant and returns it at least two weeks before the end of the quarter in which the degree is to be conferred. If the examination is unsatisfactory, the supervisory committee may recommend that the Dean of the Graduate School permit a second examination after a period of further study.
[fol. 126]

2. *The College of Architecture and Urban Planning*

Inaugurated by action of the Board of Regents at the instigation of the Washington State Chapter of the American Institute of Architects, the Department of Architecture was established in 1914. In 1935 the status was changed to that of School of Architecture in the College of Arts and Sciences.

The College of Architecture and Urban Planning was recognized as an autonomous unit of the University in July, 1957. At that time Prof. Arthur P. Herrman, Director of the School of Architecture since 1937, was appointed Acting Dean, and in April, 1958, was appointed Dean.

A member of the Association of Collegiate Schools of Architecture since 1925, the College is also accredited by the National Architectural Accrediting Board. It is also a member of the newly formed Association of Collegiate Schools of Planning. While accreditation procedures have not yet been set up for urban planning, this College has been "recognized" by the American Institute of Planners for membership purpose.

The College of Architecture and Urban Planning offers three five-year programs, each leading to a bachelor's degree. Architecture has been offered since 1928, Urban Planning since 1941, and Landscape Architecture since 1960. The College also offers programs leading to the degrees of Master of Architecture and Master of Urban Planning.

The College of Architecture and Urban Planning offers curricula in three professional areas related to the human environment: architecture, landscape architecture, and urban planning. Though there is a certain amount of close

relationship among the three disciplines, each makes its own distinct contribution. In these creative fields, the hope is to sharpen the student's perception, stimulate his imagination, give him a method of approach, and inspire him to the highest degree of professional competence. The goal is the continuous improvement of the physical environment of human beings through the creative talents of architects, landscape architects, and planners.

[fol. 127] One of the primary concerns of architecture is the study of the perceptual quality of shelter and environment. The ideal is to produce the best possible physical space and artificial climate for people, and, that environment should satisfy the function of the design. Architecture must possess the element of beauty—its aesthetic delight is as fundamental to good architecture as its function. Advances in technology and changes in social and economic conditions present a constant challenge to the profession, warranting a continuing search for a more precise performance.

To create a mental image of a structure and then to translate it into a workable building requires a special combination of carefully developed abilities and techniques. The architect is the person in whose mind the image of the building takes shape. The successful architect should be a well educated person. He must possess the sensitivity and skill of the artist, have a clear understanding of structure and materials, and have a wide knowledge of the activities and desires of people. An architect is much more than a technician—he must acquire competence in design, which is emphasized in the course of study and taught by the use of the project method.

The objective of the graduate program in architecture is to explore the possibilities for a finer architecture which grow out of a deep and intensive knowledge of the relationship among the technical, sociological, economic, and aesthetic influences significant to architectural form. To accomplish this, the suggested graduate study leading to a Master of Architecture degree is of an individual exploratory nature, thereby allowing a competent student to formulate a program of study and research which will enhance

his development and contribute to architectural advancement.

Landscape Architecture is the art and science of planning land for human use and enjoyment. It involves the design disciplines of architecture, art, and sculpture; engineering principles of earthwork, grading, and surveying; and the planning processes of natural resource conservation.

[fol. 128] A degree of Bachelor of Landscape Architecture is offered in a five-year program. The first two years are devoted to general education with emphasis on the natural sciences and basic approaches to "design". The first two years of the Architecture curriculum may be substituted. The final three years are built around a core of Landscape Design reinforced by service courses in Botany, Engineering, Forestry, etc.

The case study method is used in the design of public areas, urban redevelopment projects, and even individual residences. The curriculum is concerned with the restoration and the recreation of new environments where the natural has been damaged, but a major emphasis will be on the conservation of natural landscape values.

Urban planning is a relatively new profession, but it has gained considerable recognition, as it is increasingly necessary to meet some of the development problems of a modern, growing society on a professional level.

Included in the many duties of the urban planner are research concerning the population, land uses and economic bases of cities, and the preparation of long range, comprehensive development plans. These plans include proposals for land use, transportation facilities, and community facilities such as schools, parks, and public buildings.

In order to help put his plans into effect the planner prepares zoning ordinances, subdivision regulations, municipal capital improvement programs, and proposals for slum clearance and urban renewal.

It is important that a professional planner have an integrated understanding of his community and of its purposes and problems. Therefore, the Urban Planning curricula are designed to acquaint the student with the political, physical, economic, and social structures of communities, the emerging problems of growth and decay, and the preventive and

remedial methods for meeting such problems on a professional level.

The Urban Planning curricula combine courses from a number of different fields such as political science, sociology, business, geography, civil engineering, and urban planning. These courses are coordinated by an advisory [fol. 129] committee composed of members of the participating colleges and departments.

Both a graduate and an undergraduate program are offered by the College of Architecture and Urban Planning. The undergraduate program is a five-year course of study which leads to a Bachelor of Urban Planning degree. The graduate program, which leads to the degree of Master of Urban Planning, normally covers a two-year period. The educational objectives of the undergraduate and graduate programs are similar in that both are concerned with techniques and methods of urban planning, but the emphases of the two curricula are somewhat different.

The undergraduate program is intended for the student who is primarily interested in the design and physical planning aspects of urban planning. Considerable attention is given to the elements of physical planning, including the development of useful and aesthetic patterns in space and structure, and of design precepts for large groups of buildings and entire cities.

The program commences with two years of preprofessional training which is common to the architecture and landscape architecture programs. In the following three years, the professional training progressively emphasizes factors affecting the use of land and other elements of the urban planning process.

The graduate program, on the other hand, is somewhat more concerned with broader areas of planning research and administration.

This program draws students from a variety of undergraduate backgrounds such as sociology, geography, political science, civil engineering, and architecture. However, selected "foundation," "urban study," and "technique" courses also are needed to provide a basis for the professional courses. Therefore, it is strongly recommended that

students planning on eventual graduate training in urban planning discuss their undergraduate college preparation with the Urban Planning adviser in order to be sure that they will have adequate preparation for their graduate study.

[fol. 130] Instruction in architecture and urban planning is centered in Architecture Hall. This building was erected as a permanent structure to be used as the Art Gallery for the Alaska-Yukon-Pacific Exposition in 1909. Architecture Hall, in addition to regular classrooms and staff offices, contains drafting rooms, seminar rooms, and a library.

Since research is an essential part of the study of architecture and urban planning, the library is closely integrated into the teaching program of the College. Located in Architecture Hall, the library is a branch of the main University Library. The collection includes 5,000 books; 2,300 pamphlets; 111 currently received periodicals; a large file of manufacturers' catalogs, brochures, and samples which provide data on all aspects of building fabrication; a number of trade magazines; a file of blueprints; 6,000 lantern slides; and 4,000 35-millimeter colored slides.

Literature on historic phases of architecture, its famous practitioners, past and present; the philosophy and theory of design, color, sculpture, drawing, lettering, mechanical and electrical equipment for buildings; materials and methods of architectural construction; city, county, and regional planning and landscape architecture is available for student use during the day and evening. Current and past issues of the most prominent architectural and urban planning periodicals of the United States and various other countries are also on file in the library.

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3. *The College of Arts and Sciences*

The first courses offered by the University when it opened November 4, 1861, were courses in fields now included in the College of Arts and Sciences. The Laws of 1863 provided that the University should consist of at least four departments: (1) a department of literature, science, and arts, (2) a department of law, (3) a department of medicine,

and (4) a military department. As the University grew, the study of the basic arts and sciences was organized within a college, first called the College of Literature, Science, and Arts, and later called successively the College of Liberal Arts, University College, and the College of Arts and Sciences (since 1939). Some former departments of the College have developed into separate colleges which apply the fundamental disciplines to particular professions.

Nevertheless, the College of Arts and Sciences is still the largest and most diversified of all the divisions of the University. It consists of the subject matter departments of anthropology, astronomy, botany, chemistry, classics, economics, English, Far Eastern and Slavic languages and literature, genetics, geography, geology, Germanic languages and literature, history, mathematics, meteorology and climatology, oceanography, philosophy, physics, political science, psychology, Romance languages and literature, Scandinavian languages and literature, sociology, speech, and zoology; the semiprofessional Schools of Art, Communications, Drama, Home Economics, Music, Physical and Health Education; and the Far Eastern and Russian Institute and the Division of General Studies, which offer interdepartmental courses and curricula. The departments and schools of the College offer almost one hundred curricula leading to the degrees of Bachelor of Arts and Bachelor of Science, as well as graduate study leading to the degrees of Master of Arts, Master of Science, and Doctor of Philosophy.

In spite of their seeming diversity, the units of the College of Arts and Sciences have a common objective: to pro- [fol. 132] mote the study of the basic arts and sciences by the students and faculty. The four-year undergraduate programs of the College are designed to translate this general objective into more specific objectives: to enable all of its students to acquire an understanding of man and the universe; to appreciate the intellectual and esthetic achievements of mankind; and to contribute as informed, rational, sentient beings, to the culture and progress of a changing world. The kind of education which serves these objectives is sometimes designated as "liberal"; it provides both breadth and depth of intellectual experience, not restricted

in its relevance to any vocational or professional application.

The basic programs offered by the College are constructed within a framework which preserves the tradition of liberal education. The objectives of the College, however, permit a wide variability in the educational aims of its students. Certain units of the College combine professional training with general college study, but any special goals of a professional or vocational nature are regarded as extensions of the basic bachelor's program. The faculty is deeply aware of the value of individuality to our society and is ready to assist students to develop programs which satisfy strong personal desires; yet the objectives of the College require some common patterns of study.

Several kinds of undergraduate degree curricula are offered in the College. *Prescribed* departmental curricula, offered by some departments and schools, definitely prescribe the work the student must complete for the bachelor's degree; *elective* departmental curricula are more flexible than prescribed curricula but require at least 36 credits in the major subject; *interdepartmental* curricula, given by the Division of General Studies, meet the individual needs of students whose major field of interest extends beyond the limits of a single department or college.

In addition to curricula leading to degrees in the College, the College provides curricula for the basic preparation of students who plan to enter into professional training offered by schools of dentistry, education, law, librarianship, medicine, and social work. These curricula vary in length from [fol. 133] one to four years.

Students who have not made a definite choice of a degree program before entering the University may select, in consultation with an adviser, a program of studies which will meet the general requirements of the College and at the same time provide opportunities to explore the possibilities of college study. Students may remain in this premajor category no later than the end of the sophomore year.

The College provides special opportunities for students of superior ability. Special sections of elementary courses and sequences of advanced courses for students who have

demonstrated special abilities in a single field of study have been available in the College for many years.

To provide further encouragement for the superior student, the College is initiating in Autumn, 1961, a four-year Honors Program which will combine general honors courses with honors sequences in the major field of the student. Freshman students entering in Autumn, 1961, are selected for the College Honors Program on the basis of their high school records and qualifying examinations; other students may enter the program during the academic year upon recommendation by the faculty and approval by the Honors Council of the College.

The Directors of Honors and the Honors Council will counsel students accepted into this program, and will arrange approximately one-half of their schedules in honors courses.

In addition to providing instructional programs for students whose major fields of interest lie in the departments and schools of the College, the College provides instruction to students in every other unit of the University. Those students who expect to enter the professional Schools of Law, Medicine, Dentistry, Social Work, or Librarianship find in the preprofessional programs of the College the means of advancing their general education while preparing for their professional training. Students enrolled in other undergraduate colleges of the University are often required to take a large portion of their work in courses given in the [fol. 134] College of Arts and Sciences, and may elect additional courses as their degree programs permit.

The College of Arts and Sciences offers a number of study, research, and cultural facilities which, while associated with one or more of the units of the College, have even wider significance as elements of the University itself.

The University libraries contain over a million books and acquire 65,000 more each year. They currently receive 17,000 periodicals. The Henry M. Suzzallo Library, opened in December, 1926, houses the main collection, the general catalog, the reference division and documents section, current periodicals, the science room, and the reserve book room; in addition, the Pacific Northwest Bibliographical

Center maintains a union catalog for libraries in Washington, Oregon, Idaho, Montana and British Columbia. Twenty branch libraries for special academic subjects are located in other buildings. Particularly notable among the library holdings are the books and manuscripts in the Pacific Northwest collection; works on oceanography, fisheries, and forestry; documents as a depository of the United States government, United Nation agencies, and the Canadian government; and materials in Russian, Japanese, and especially Chinese.

The Washington State Museum, for which a new building is under construction, contains natural history and anthropological collections of the Pacific Northwest, Oceania, and the Far East. Three University theaters, the Showboat, the Penthouse, and the Playhouse, are used throughout the year in the School of Drama program. Radio Station KCOW, an FM station operated by the School of Communications, and television station KCTS, a community-sponsored project with studios located at the University, are used both for student training and for public service in communications. The Henry Art Gallery offers a program of frequently changing exhibitions of recent work in painting, sculpture, printmaking, photography, and the craft media, film programs, musicales, and other special events.

Service-research organizations include the Bailey and Babette Gatzert Institute of Child Development, of the [fol. 135] Psychology Department, which provides clinical training for graduate students, conducts research, and offers consultative service, and the University Nursery School, maintained for nursery school teacher training, observations, and demonstrations. The Speech and Hearing Clinic, of the Department of Speech, offers remedial service to students and others with speech or hearing defects. Two bureaus conducting research in government and international relations are affiliated with the Department of Political Science. These agencies are the Bureau of Governmental Research and Services and the Institute of International Affairs. The Institute for Economic Research is a research organization affiliated with the Department of Economics.

Through the Language Laboratory, operated jointly by the language departments and the Film Center, it is possible

for students to practice hearing and speaking a foreign language at their own pace, in addition to class hours which are thus freed for explanation and discussion.

The Institute for Sociological Research and the Office of Population Research are maintained by the Department of Sociology. The cyclotron and the Cosmic Ray Laboratory are research agencies of the Department of Physics.

The Research Computer Laboratory of the Graduate School has two magnetic drum-type, high-speed computing machines which are used for research computations of all departments and research groups on campus as well as for laboratory work related to the undergraduate courses in numerical analysis and data processing.

The Friday Harbor Laboratories (under the administrative jurisdiction of the Graduate School) on San Juan Island, about eighty miles north of Seattle, provide unique opportunities for teaching and research in the marine sciences. During the summer, courses in algology, marine zoology, oceanography, meteorology, and fisheries are offered for advanced undergraduate and graduate students.

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4. *The College of Business Administration*

The College of Business Administration was established in 1917, and its growth has been as rapid as that of the Northwest. Since 1921, the College has been a member of the American Association of Collegiate Schools of Business. Today it has a senior faculty of 90 members, an undergraduate enrollment of 2,000 students, and a graduate enrollment of 250.

The curriculum receives continuing, critical review by the faculty, and departmental programs reflect the major revisions in undergraduate curricula approved in 1961.

The major mission of the College's undergraduate program is to provide students with a substantial background in the underlying fields of knowledge basic to responsible citizenship and essential to an understanding of business as an integral part of today's society. Education for business is perceived as a life-long, not a four-year, process,

and the curriculum is therefore designed to equip the student with the sound foundation needed to continue his learning experience after graduation.

The student learns, within this setting where major emphasis is on business—its specialized or functional areas—to view business as a segment of the whole of knowledge, with roots in the liberal arts and sciences. Approximately half his undergraduate work is in the communication arts and the quantitative, physical, and social sciences.

The College seeks to create and maintain an intellectual atmosphere conducive to the pursuit of knowledge for its own sake. It strives to encourage both faculty and students to push forward the frontiers of knowledge and to lead in the development of business thought.

The College's activities are centered in a new classroom building, and the faculty and administration offices are located in an adjoining staff building. In addition to regular classrooms there are accounting laboratories, a library, and seminar rooms arranged to fit the needs of particular types of instruction.

[fol. 137] The Business Administration Library is situated on the main floor of the Business Administration Classroom Building. It has seating for more than three hundred readers. The library has current materials on all phases of business, including books, newspapers, periodicals, pamphlets, government publications, annual reports, indexes, bibliographies, and loose-leaf services in finance, trade regulation, accountancy, transportation, real estate, corporate taxation, insurance, and labor and personnel. Conference study rooms are provided for students. Research offices are available for faculty.

The College maintains a Bureau of Business Research which is a member of the Associated University Bureaus of Business and Economic Research. The Bureau was established in 1941 to centralize the University's research in business and to serve business, industry, labor, government, and the professions. Publications include studies of Pacific Northwest, Washington, and Alaskan industries, communities, and general aspects of business administration.

The *University of Washington* Business Review is a journal published bi-monthly during the academic year (February, April, June, October, and December) by the College of Business Administration. The magazine serves as a means of disseminating information of wide interest to students of business, to the business community, and to other universities. Articles present significant results of business research; describe and evaluate trends and techniques in business administration and the business environment; and (in some cases) present regional business analyses. The magazine is distributed on a paid subscription basis to bureaus of business research and libraries of other universities.

The Production Laboratory provides demonstration facilities for use in production courses. In addition, the Laboratory is equipped to enable students to carry on individual research projects at graduate and undergraduate levels. Equipment, including primary machine and hand tools, is available for studies in motion and time, layout, and experimental testing.

[fol. 138] The College encourages students to supplement classroom training by obtaining experience in actual business situations. Selected students in accounting and marketing have an opportunity to work in industry while earning college credits.

Accounting majors, by special arrangement, spend one quarter with a certified public accounting firm, industrial organization, or government agency. At the completion of the work period, students submit written reports on their employment experiences.

The Marketing Department administers scholarship programs which are, in effect, cooperative training. These programs provide part-time work and training, enabling students to study policies, methods, and techniques. The programs give college credit to qualified students for reports on work experience.

[fol. 139] 5. *The College of Education*

The first teacher training in the state of Washington was given at the University by President Alexander J. Ander-

son (1878-1882), who conducted courses in literature, mathematics, astronomy, surveying, psychology, and pedagogics. However, despite efforts of the Board of Regents and the Superintendent of Public Instruction, there was no development of a University program, and President Anderson himself finally urged establishment of a state normal school. When normal schools were established at Cheney and Ellensburg in 1890, and at Bellingham in 1893, teacher training at the University halted altogether.

The general growth of the University between 1898 and 1914, during the administrations of Presidents Frank P. Graves and Thomas F. Kane, brought a new beginning for teacher training. A small Department of Education was developed, and in 1913 the faculty voted to establish a School of Education coordinate with other schools and colleges of the University. Dr. Frederick E. Bolton was appointed dean. In 1914 the School of Education became the College of Education, the first such college in any state university.

In 1929 the College administration was instrumental in obtaining action by the State Board of Education toward establishment of the five-year plan for the normal diploma. By 1933 the plan was in operation.

The College of Education offers programs for the preparation of teachers and for advanced educational study which represent the close cooperation of the academic and professional faculties of the University. An extensive schedule of classroom observation and supervised practice teaching is made available through cooperative arrangement with the public schools in the Seattle-King County area.

In concert with staff members in other colleges of the University, the staff of the College of Education seeks to achieve broad training in the liberal arts and sciences by providing a general education program, designed to develop the knowledge, understanding, skills, and abilities charac- [fol. 140] teristic of an educated person enjoying citizenship in a free democratic society.

The several programs offered by the College of Education present undergraduate and graduate courses designed to:

Help the prospective teacher develop competence and sophistication in one or more teaching fields, and, through study and practice, begin to develop proficiency in the actual teaching of those fields;

Introduce students to the study of education as a basic social institution and to the profession of teaching;

Insure the comprehension of growth and development in children, youths, and adults through research, observation, and direct experience;

Provide an understanding of the teaching and learning processes as they affect the selection, organization, presentation, and evaluation of curriculum materials and resources for various age levels and ability groups;

Promote and foster research and advanced study in the several branches of the field of education for which post-baccalaureate work is appropriate;

Assist each student in acquiring a workable philosophy of education and an appreciation of the ethical role of a professional educator in a free society.

Through the Bureau of School Services and Research, the College of Education provides a wide variety of professional services to the schools and communities of the state of Washington. Upon request, University faculty members from within and outside the College of Education are available for in-service training and to act in advisory capacities.

The College of Education Library, the first departmental library on the campus (1913), is a branch of the University's Henry Suzzalo Library and contains a well-rounded collection of books and periodicals on education and its related fields. Of particular interest are a curriculum collection and sample textbooks; pamphlet, test, and thesis files; and an interlibrary loan service. The facilities of the library [fol. 141] are available not only to students but to teachers throughout the Northwest.

The *College of Education Record* is published four times a year. In addition to book reviews, education news notes, and occasional College announcements, this journal contains articles on a variety of subjects for teachers and administrators.

Bulletins on the graduate degree program and the training of public school teachers keep students and educators acquainted with changes in these areas.

The College of Education cooperates with the State Department of Public Instruction and with school districts throughout the state in the training program for the Standard Certificate through in-service work, individual visits, and conferences with beginning teachers and their administrators. There is also a special observation, research, and practice program in the public schools of the Seattle area and in other nearby districts in which students teach for one quarter, working with a master teacher in a public school.

The College maintains an In-Service Teacher Training program in which University staff members cooperate with state school administrators and teachers in dealing with professional problems. Other services include curriculum workshops, held at the University during the summer and in some counties during the school year; informal help through letters, telephone calls, and visits.

[fol. 142]

6. *The College of Engineering*

In the spring of 1861 three forward-looking Seattle citizens, Arthur A. Denny, Judge Edward Lander, and Charles C. Terry, deeded ten acres of land for the establishment of a new university in what was then Washington Territory. Several months later, on November 4, 1861, the University of Washington opened the doors of a new frame building where the twenty-two-year-old "principal", Asa Shinn Mercer, began the instruction of thirty-one students, many of them young men recruited from nearby logging camps.

By 1889, when Washington was admitted to the Union, the University had achieved a consistent program and an enrollment of more than one hundred students. But it was clear that the original building would soon be inadequate and that the University would need more room for development. In 1891 the new University site, the present 600-acre campus between Lake Washington and Lake Union, was selected. The first of the new buildings, Denny Hall, was completed in 1894 and occupied for the first time in Sep-

tember, 1895, when the University's enrollment was 425 students. (The original campus is now the center of downtown Seattle. The Olympic Hotel stands on the ground occupied by the first University of Washington building.)

The plan to establish curricula in engineering was formulated at the time the University was preparing to move to its present campus. Instruction in mining engineering was authorized by the Regents in 1893 and the Catalogue of 1894-95, which listed courses in civil engineering, including surveying, descriptive geometry, hydraulics, irrigation, and strength of materials, also announced that instruction in electrical engineering was planned for 1895. It was not, until 1898, however, that the Department of Civil Engineering and the School of Mining Engineering were established on a firm basis with qualified faculty members. In 1901 the sporadic courses in electrical engineering were brought into a definite curriculum.

[fol. 143] The College of Engineering was recognized as a major unit of the University in 1899, when Professor Almon H. Fuller was appointed the first Dean of Engineering. The first engineering degree was awarded in 1900 in mining engineering. The first degree in civil engineering was awarded in 1901, the first degree in electrical engineering in 1902, the first degree in mechanical engineering in 1906, and the first degree in chemical engineering in 1907. The Department of Aeronautical Engineering was established in 1929 and its first degrees awarded in 1930.

In 1911 the School of Mines became the College of Mines, and in that year the Northwest Mine Rescue Station of the United States Bureau of Mines was established at the University. Later, in 1916, the Training Station was joined by the Northwest Experiment Station, a coal and non-metallic mining laboratory of the Bureau. The College of Mines remained a college until 1947, when it became the School of Mineral Engineering within the College of Engineering.

In 1955 there was established a graduate program in Nuclear Engineering leading to the degree of Master of Science in Engineering, and the first degree was awarded in 1958. An interdepartmental graduate program in Engineering Mechanics was initiated in 1961.

The College of Engineering, participating in the technological development of the Northwest, has shared the University's rapid growth. The College has a faculty of more than a hundred and fifty members. In 1960 some twenty-two hundred undergraduate and six hundred graduate students were enrolled in engineering curricula.

Engineers use the principles of science and of engineering to create things that people need or want, such as highways, machine tools, airplanes, gasoline, television, or city planning. Scientists discover new principles; engineers make them useful. The scientist studies a carefully isolated aspect of reality and develops theories concerning its behavior. He is interested in knowledge for its own sake.

The engineer deals with reality in its many aspects. He must not only be competent to understand and use the meth- [fol. 144] ods of science, but he must be able to use his ingenuity to devise a product or process that will be useful and economical. Moreover, he must assume professional responsibility concerning the safety and well-being of people affected by his work.

Assisting the engineer and the scientist is the engineering technician. His work is more practical and applied and requires about two years of post high school training in a technical institute or junior college. He works closely with the engineer to test models, to assist in their development, and to put engineering designs into production.

The truly qualified scientist usually must have a college education extending past the four-year bachelor's degree to the Doctor of Philosophy degree. The engineer with the bachelor's degree, on the other hand, is more immediately useful to industry for many technical positions. However, many engineers now need graduate study leading to master's and doctor's degrees, particularly if they plan to engage in research, in college teaching, or in creative design on a high professional level. Students with academic aptitudes should seriously consider at least a fifth year of specialization.

The College of Engineering offers educational programs in the various fields of engineering with five main aims: (1) to provide a strong undergraduate engineering education leading to the bachelor's degree and enabling some

students immediately to enter the engineering profession, (2) to provide a fundamental scientific and technical foundation for graduate studies, (3) to provide a stimulating program of graduate studies and research for students who have the potential to pursue such programs successfully, (4) to permit the outstanding student to realize his full capacities and develop those qualities which eventually will make him a leader in the profession, and (5) to inculcate in each student the desire to read, study, and progress professionally "on his own."

Although engineering education is aimed primarily at providing the scientific and technical foundation required for the profession, each curriculum includes courses in the humanities and social studies to broaden the student's knowledge, increase his sense of responsibility, and help [fol. 145] him live more effectively as an individual engineer and citizen.

In recognition of the responsibility of the University for the development of knowledge and the training of research personnel, the College has active graduate programs beyond the Baccalaureate in all engineering departments. The College has also developed an expanded research program at every level in these departments. Not only does this research advance engineering knowledge, but it is an integral part of the educational experience needed to qualify men for research and development positions, or for careers in engineering teaching.

The departments of the College of Engineering occupy seven major campus buildings: More Hall (Civil), Hydraulics Laboratory (Civil), Electrical Engineering Building, Roberts Hall (School of Mineral Engineering), Guggenheim Hall (Aeronautical and Humanistic-Social Studies), General Engineering Building, and Mechanical Engineering Building. In addition to numerous smaller isolated laboratories, substantial portions of the following buildings are also used: Bagley Hall (Chemical Engineering), and Engineering Shops (Mechanical Engineering).

Aeronautical Engineering

Equipment is available, or is presently under construction, for laboratory instruction and experimental investigations in the fields of aerodynamics, gas dynamics, magneto-hydrodynamics, elastic and inelastic structures and materials, high temperature and vacuum effects on materials and structures, heat transfer and wave propagation in solids.

The largest facility is the self-contained F. K. Kirsten aeronautics laboratory housing an 8 by 12 foot 250 mile per hour wind tunnel specifically designed for advance research projects and industrial testing. A hypersonic shock tunnel is located in a temporary self-contained facility.

All other laboratories are housed in Guggenheim Hall at this time with planned expansion into a new facility in the near future. These laboratories contain a fully equipped supersonic and subsonic testing facility with development underway of the gas dynamics and magneto-hydrodynamics [fol. 146] facilities. Adjacent to these, and as part of the instructional laboratory complex, is the structures and materials laboratory equipped to investigate elastic and inelastic behavior of structures and materials with the capability of producing high vacuum environments.

These facilities are maintained and expanded by a well-equipped machine, electronics, and model shop which is available to all students and staff engaged in experimental research. An instrumentation laboratory devoted to the study of systems is under development. Adequate computer facilities are available on the campus.

Chemical Engineering

The Department of Chemical Engineering is in Bagley Hall, where, in addition to laboratories for instruction in chemistry, a number of laboratories with extensive special equipment are provided for students in chemical engineering courses. The two-story chemical engineering unit operations laboratory contains equipment for study of fluid flow, heat transfer, evaporation, absorption, distillation, centrifuging, drying, filtration, and crystallization. Grinding and sieving equipment is in a separate room. A unit processes

laboratory has pilot-plant-size equipment for study of chemical processing. Complete equipment is available for study of paper pulping processes on a pilot-plant basis and for laboratory investigations of electro-chemistry. Machine, instrument, and glass-blowing shops staffed by full-time employees are maintained. A wide variety of special equipment for research is used by seniors and graduate students for thesis investigations, and branch library in Bagley Hall houses a special collection of reference books and periodicals.

Civil Engineering

More Hall, the civil engineering building, has modern structural, concrete, mineral aggregates, soil mechanics, bituminous, dynamics, and sanitary engineering laboratories. The structural laboratory contains a 2,400,000-pound testing machine with 120 inches between screws, a number of smaller machines ranging in capacity from 60,000 to 300,000 pounds, and complete electronic apparatus for stress and strain measurements. The concrete laboratory [fol. 147] has facilities for making, curing, and testing concrete specimens. The aggregates laboratory houses apparatus for testing the hardness, soundness, and wearing qualities of rock and for control of grading. The soil mechanics laboratory is of top rank in this field, and is equipped for all generally recognized tests encountered in foundation and earthwork engineering.

The bituminous laboratory contains apparatus for the usual tests required of asphaltic road building materials and is exceptionally well equipped for research in the design of stable bituminous surfacings. A complete sanitary engineering laboratory for the chemical, bacteriological, microscopic, and radiological analysis of water, sewage, and industrial waste is available for study and professional research. The Charles W. Harris Hydraulics Laboratory, on the shore of Lake Union, is equipped with the latest facilities for investigations and laboratory studies of many problems in experimental hydraulics and water power. It is supplemented by an outdoor laboratory for construction and study of models of river channels.

Electrical Engineering

The Department of Electrical Engineering is housed in Electrical Engineering Hall, a three-story building of modern design completed in 1948. All laboratories and most of the research facilities are included in the approximately 80,000 square feet of this building. Some classroom and office space is also provided in Mechanical Engineering Hall across the street. Most classrooms are designed to accommodate a maximum of 24 students each.

Laboratories include two large undergraduate laboratories in which most of the sophomore and junior work is done. A number of smaller laboratories are also provided in such specialized areas as microwaves, controls, fields, solid-state electronics, computers, servo-systems, acoustics, measurements, and transients, most of which are used by both graduate and undergraduate students.

A 44-acre site in the south end of Seattle provides a field [fol. 148] laboratory devoted to study of antennas, radio propagation, satellite reception, ionosphere measurements, etc.

Graduate students are usually assigned to one of the smaller laboratories or to a field site where they carry on research leading to a thesis, under the supervision of a graduate faculty adviser.

General Engineering

The Department of General Engineering occupies a new, centrally located, modern, four-story building, especially designed for the use of the first-year engineering student. Besides adequate classrooms and offices, the building contains a student reading and study room, a blueprinting room with a high-speed printing and developing machine, a shop for model building, and a lecture and motion picture auditorium seating 160.

Humanistic-Social Studies

The Department of Humanistic-Social Studies has its offices, classrooms, and library in Guggenheim Hall. Its library contains books in a wide variety of non-technical

fields, located on open shelves where they are readily accessible to those who wish either to study or browse. In addition to the usual audio-visual equipment, the Department maintains a library of records which are loaned to students either to play at home or on the Department's own equipment.

Mechanical Engineering

A new building, occupied in June, 1959, and containing 100,000 square feet, houses all of the activities of the department except those in manufacturing processes, which are located in an adjacent building. Approximately 15,000 square feet are devoted to laboratory instruction and research facilities for the study of engineering materials, experimental stress analysis, instrumentation, and vibration. All the usual physical testing equipment is available in these laboratories. The experimental stress analysis and non-destructive testing areas are especially well-equipped. The instrumentation laboratory contains facilities for the study of automatic control, including apparatus to demonstrate principles by electronic, pneumatic, and hydraulic analogs. A well-equipped instrument and [fol. 149] experimental shop is an adjunct of these laboratories.

Instructional and research laboratories serving the thermodynamics, gas dynamics, and heat transfer areas, occupy about 18,000 square feet and are equipped to exemplify the modern trends in heat power laboratory instruction and also to lend themselves to research. Substantially all of the equipment is new. Molten-metal and water heat transfer loops are housed in special quarters and are instrumented to be used effectively in undergraduate and graduate instruction as well as for research in nuclear reactor applications. Facilities are provided for instruction and research in the use of radiation-tracer techniques in lubrication and wear studies. Solar heat collectors and associated equipment are mounted on the roof of the building. Through cooperation of the United States Navy, rocket dynamometer test stands of the department are quartered at the Sand Point Naval Air Station, two miles from the campus.

The manufacturing methods laboratories are arranged and outfitted to demonstrate the basic principles of forming and fabricating engineering materials, and also to provide for laboratory exercises and research work in methods analysis, quality control, plant layout, and economic studies of production.

Mineral Engineering

The laboratories of the Ceramic Engineering Division are made up of five groups, the first of which contains facilities for grinding and classifying raw materials, mixing and tempering them, and forming these materials into shapes. The second group, principally in the Hewitt Wilson Ceramic Laboratory, contains the various kilns necessary for firing and testing ceramic ware. Included in these are a small scale continuous electric-fired tunnel kiln and a small rotary kiln. A larger rotary kiln of sufficient size for pilot-plant experiments is also available outside this building. A physical testing laboratory makes up the third unit, also in the Hewitt Wilson Laboratory. The fourth group is the coatings laboratory in which glazes for ceramic ware and coatings for materials are prepared, applied and fired. The research laboratory is the fifth of [fol. 150] these groups and contains the equipment needed for specialized undergraduate and graduate research including a supercentrifuge for sub-sieve particle size determination, thermal expansion unit, differential thermal analysis equipment, and petrographic microscopes for mineral identification and analysis and electro-dialysis equipment. For X-ray diffraction, the laboratory is equipped with the latest Norelco diffraction and fluoresecent analysis units by means of which either the direct reading techniques or camera technique can be employed.

[fol. 151] 7. *The College of Fisheries*

Throughout its history the University has taken an active and earnest interest in the natural resources of the Northwest. This interest is evidenced by the establishment of a curriculum in mining engineering in 1893, the College of Forestry in 1907, and the College of Fisheries in 1919. In

January of 1958, the Board of Regents of the University reaffirmed this interest and recognized the importance of fisheries to the economy of the area by incorporating the two fisheries groups on the campus, the School of Fisheries, and the Fisheries Research Institute, into the re-established College of Fisheries. Food Science was established as a college curriculum in 1960.

The College of Fisheries offers students an ideal balance of laboratory, classroom, and practical experience. The Fisheries Center houses the library, classrooms, laboratories, and general facilities as well as several research organizations. The building, constructed in 1949, is situated on the Lake Washington Ship Canal which connects Lake Washington, a large fresh-water lake, with the salt water of Puget Sound.

The College library contains material covering the subjects embraced by the fields of fisheries and oceanography, and is available for the use of students for class work and research. This library is supplemental by collections of the International Pacific Halibut Commission and of the Fisheries Research Institute. Excellent general and departmental library facilities are maintained at other locations on the campus.

To assist in research and for teaching purposes, the College maintains a collection of about 250,000 preserved specimens, coverings approximately 2000 species of fish from northern and southern oceans. As part of the practical experience and research program, the College has concrete fish ponds, connected to the Lake Washington Ship Canal by a fish ladder. Inside the Fisheries Center, an experimental fish hatchery and salt water aquaria provide facilities for students to study the entire life cycle of the Pacific Salmon as well as those other fresh-water and salt-water fish. The [fol. 152] Fish Behavior and Physiology Laboratory houses facilities for studying the behavior and swimming ability of fish.

In addition to the biological laboratories, there are complete laboratory facilities for both teaching and research in food science in the Fisheries Center. These include biochemical, microbiological and analytical laboratories, and

a processing laboratory equipped with canning, freezing, smoking, and other food processing equipment.

A 67-foot, diesel-powered boat, with cabin laboratory, is operated by the College. The vessel, the "Commando", is used for instruction and research in Lake Washington, Puget Sound, and the North Pacific Ocean. It is equipped with fishing gear for trawling, and for most other types of fishing used in the North Pacific.

Within two miles of the campus is located the headquarters of one of the Pacific Coast's largest fishing fleets. Puget Sound, in addition to its world-famous salmon and halibut fisheries, has extensive bottom fish, commercial oyster, clam, crab, and shrimp operations. Sports fishing, particularly for trout, is available in the Northwest's many lakes and streams. Full advantage is taken of the proximity of these natural resources in research and teaching.

The Friday Harbor Laboratories, on San Juan Island, about 80 miles north of Seattle, provide unique opportunities for teaching and research in the marine sciences. During the summer, courses in algology, marine zoology, fisheries, oceanography, and meteorology, are offered for advanced undergraduate and graduate students.

The Fisheries Research Institute was established by the University of Washington in 1947 to continue research, initiated in 1945 under sponsorship of the salmon industry, on red salmon in Alaska. In January of 1958 the Institute became the research branch of the College of Fisheries, responsible to its Dean.

It has conducted research in Bristol Bay, Southeastern Alaska, Kodiak Island, The Alaska Peninsula, and in Prince William Sound under various contracts, and, on behalf of the U. S Department of Interior, has carried out salmon [fol. 153] tagging programs in the Mid-Pacific in connection with the International North Pacific Fisheries Treaty between the United States, Canada, and Japan. Other research projects have included studies on sea lions, the effects of logging on salmon streams, and salmon migrations in Cook Inlet.

Research is facilitated by a large inventory of field and laboratory equipment. There is a large collection of special

literature and records such as maps, biological data on punched cards, statistical data on microfilm, and material on work in progress, all under the care and supervision of a librarian.

Besides its headquarters on the University campus, the Institute maintains five research stations in Alaska: two are in permanent shore buildings on Lakes Nerka and Aleknagik; one on floating barges at Igiugig in western Alaska, and two in Southeastern Alaska.

Offices are maintained in the Fisheries Center by the Washington State Department of Fisheries and the Washington State Department of Game. Members of the U. S. Fish and Wildlife Service are doing research on fish diseases, using Fisheries Center laboratories. The Laboratory of Radiation Biology, a national center for research in aquatic radiobiology supported by the Atomic Energy Commission, also has its quarters in the Fisheries Center.

In the city of Seattle are offices and laboratories of the U. S. Fish and Wildlife Service; and the headquarters of the International Pacific Halibut Commission is located on the campus.

[fol. 154] 8. *The College of Forestry*

The University of Washington College of Forestry was established in 1907, at a time when professional forestry education in the United States was in its infancy. The College began its program with a staff of two instructors and a class of ten students. Today, accredited by the 14,000-member Society of American Foresters, the College numbers 14 faculty, 280 students, and 1,850 alumni.

Since 1925, the College program has been centered in the main forestry building, Alfred H. Anderson Hall, where facilities include lecture rooms, laboratories, an assembly hall, student activity rooms, a Forest Club room, and the College Library. The building was a gift of Mrs. Agnes H. Anderson, whose husband was a pioneer lumberman and civic leader in Washington.

For over half a century, the College of Forestry has pursued the philosophy of its founders: that the important timber resource of the Northwest requires men especially

trained to harvest the forest crop efficiently and wisely, and men skilled in techniques of converting the raw material to maximal economic use. These goals are set forth in the following Statement of Policy and Objectives, adopted February 9, 1960:

Preamble:

The unusually large vested interests of the people of the State of Washington in the multiple-use of forest lands, and the increasing dependence of the state economy on advanced forestry practices and effective forest utilization, demand a dynamic program of forestry education and research. The University of Washington is uniquely located to lead this program because the concentration of diverse wood-using industries, and the forests, their products, and allied resources, provide the University with opportunities and responsibilities in all aspects of professional forestry instruction and in research.

Objectives

The objective of undergraduate professional education in the College of Forestry of the University of Washington is to provide the best professional instruction in the many aspects of forest management, logging engineering, forest products, and such other related areas of forestry as may be dictated by future developments.

The objectives of the graduate program of forestry are to make available the best academic guidance, re- [fol. 155] search facilities, and advanced professional education to foresters desiring intensification or specialization beyond the initial professional degree.

The objectives of the research program in forestry are to provide a medium of education primarily in graduate programs, to provide stimulus for professional growth by faculty, and to promote and execute fundamental forestry research.

Further general objectives include providing professional forestry leadership; the conduct of seminars, colloquia, short courses, and other similar media for

various professional and non-professional groups; and the dissemination of forestry information by methods appropriate to the University and College.

Because Seattle is in the center of the Northwest timber industry, forestry students here encounter at first hand the forest-management and forest-industry problems with which they will be concerned as foresters. Government forests and private timber holdings serve as laboratories and are regularly integrated into the four-year curriculum in which students study forest management and logging engineering in the field. Practicing foresters contribute to the laboratory instruction. Sawmills, plywood plants, pulp and paper mills, wood-industry research laboratories, and other wood-processing plants, all in close proximity to the College, provide field laboratories for student projects in the forest products curriculum. This favorable educational environment makes it possible to incorporate practical experience into the academic program.

The College of Forestry Library, a branch of the University's Henry Suzzallo Library, contains 10,000 bound volumes and 20,000 pamphlets, reports, and monographs. It also possesses an excellent collection of approximately 500 forestry periodicals and many indexes to current forestry literature. Under the nation-wide Farmington Plan, sponsored by the Special Library Association, it has assumed responsibility for collecting all foreign material published in the fields of forestry and pulp and paper technology. This facility provides unusual opportunity for academic research.

Two Forest Soils Laboratories, in Anderson Hall, serve a dual purpose as research and teaching aids in the College. In addition to enabling graduate students to study all types of forest-soil problems and thoroughly explore properties of forest soils, undergraduate students can become familiar [fol. 156] with important forest soil characteristics and with methods for analyzing forest soils.

Supplementing the Forest Soils Laboratories is a field laboratory at Pack Demonstration Forest, where less elaborate studies of forest soils and other problems are con-

ducted. These three laboratories have been important factors in expanding research on the growth of forest trees. Greenhouse space is also available through cooperation with the Botany Department.

The Herbarium supplements forestry students' field work in dendrology. The collection contains representative plant material from all parts of the United States, and includes dried mounted specimens of leaves, twigs, and flowers of the hardwood trees, and shrubs and twigs of the coniferous species. Fruit specimens and a complete cone collection of American conifers are maintained apart from the mounted collection. The Herbarium also provides authentic specimens for use in identifying woody plant material in many branches of forestry work. Another herbarium, complete in range plants, is maintained by the Botany Department and is available to forestry students.

The Wood Collection contains nearly 3,500 specimens from all parts of the world, providing authentic material for research and for identification of wood samples. The collection is valuable in the study of properties, characteristics, and uses of various woods, and provides material for studies of wood structure, both gross and microscopic.

Housed in its own building on the campus, the Forest Products Laboratory is equipped to conduct advanced studies of wood and wood products. Sections of the Laboratory are devoted to timber physics, woodworking, wood gluing, wood preservation, kiln drying, photomicrography, advanced wood technology, fiber board, and particle board. Testing machines, presses, machine tools, chemical apparatus, kilns, and mensuration devices permit almost unlimited experiments with wood.

A dry kiln for research and instruction in wood seasoning is situated adjacent to the Forest Products Laboratory. It [fol. 157] is equipped with modern instrumentation for remotely controlling the variables involved in the drying of lumber over a wide range of conditions. The 18-foot by 26-foot drying chamber is sufficiently large to reproduce conditions found in industrial-seasoning practice, yet not so large as to be unwieldy for conducting basic wood-drying research. Undergraduate students in forest products operate the kiln as part of their senior-year program.

The University Arboretum is a 267-acre park planted with trees and shrubs from all over the world. The diversified topography of the Arboretum, which produces varied soil and moisture conditions, and the mild climate of the Puget Sound region permit the growth of a greater number of species and varieties than is possible in almost any other area. The Arboretum is a ten-minute walk from the campus.

The Lee Forest is a tract of young timber in Snohomish County, near Maltby, about twenty-two miles from the University. The 158-acre property was deeded to the College of Forestry in the early 1930's by Mr. and Mrs. George O. Lee in memory of Mr. Lee's parents, Mr. and Mrs. O. H. Lee, Snohomish County pioneers. An experimental and demonstration farm forestry area, the Lee Forest is used for teaching and research in forest management, silviculture, ecology, and forest soils. A number of permanent study plots have been established, a study map made, and intensive growth measurements taken. During the winter of 1952 a first thinning was made in Douglas fir stands thirty-five and fifty-five years old.

The accessibility, stocking age, and site of the Lee Forest make it exceptionally valuable for studies and demonstrations of farm forestry practices applicable in western Washington.

The Charles Lathrop Pack Demonstration Forest, an enlargement and development of an original gift from the Charles Lathrop Pack Forestry Trust, is a tract of more than 2,300 acres. It extends along both sides of the Mt. Rainier National Park highway at La Grande, Washington, sixty-five miles from the University. The Pack Forest is an excellent field and research laboratory as well as a public demonstration project.

[fol. 158] Since 1928, when several permanent sample plots were established, research projects in various phases of silviculture, mensuration, and forest soils have been set up. Cooperative studies are being conducted with the Pacific Northwest Forest and Range Experiment Station.

Complete facilities for classwork and living accommodations are available to students and instructors working at the Pack Forest.

The Winnifred Denny Moore Memorial Forest is a recent gift to the College of Forestry from Dr. Raymond C. Moore, professor of geology at the University of Kansas. The 450-acre tract is situated in the eastern Cascade Mountains, about 20 miles northwest of Cle Elum, in the Boulder Creek area of the Wenatchee National Forest.

The tract is forested with ponderosa and lodge pole pine, spruce, and fir. It is especially useful for ecological studies in eastern Cascade timber types and for experimental plantings and land management studies in the high altitudes of Eastern Washington.

The Institute of Forest Products, which is housed in Anderson Hall, has three general objectives: (1) to provide students with increased opportunities for advanced study and research particularly in fields relating to products of the forest; (2) to provide for additional new and important research results especially in fields relating to forest products, and (3) to provide for increased University research cooperation with industry and government in fields relating to forest products. Predoctoral and postdoctoral research assistantships are available.

The Colonel William B. Greeley Lectureship in Industrial Forestry was established by the Industrial Forestry Association in 1956 to commemorate one of the nation's foremost pioneer foresters. With the funds provided by the grant, prominent industrial foresters are invited to the College during the Winter Quarter to conduct a special course in industrial forestry which includes public lectures and a series of seminars. The Lectureship serves as a memorial to a man who made great contributions to American forestry through his support of industrial forestry, tree farming, the Keep Green movement, and numerous other significant advances in forestry.

[fol. 159] 9. *The School of Nursing*

The University of Washington School of Nursing is an independent professional school within the Division of Health Sciences. It is an integral part of the University and its programs meet all University standards and requirements.

The School's origin in 1917 represented a pioneer effort in university nursing education. The first offerings consisted of a few service courses for graduate nurses. Under the leadership of Mrs. Elizabeth S. Soule the opportunities in nursing education were extended, and both undergraduate and graduate programs were developed. The Department of Nursing Education, which was established in 1921, became the School of Nursing in the College of Arts and Sciences in 1934. In 1945 it became an autonomous professional school in the Division of Health Sciences with Mrs. Soule as its first Dean.

During the 43-year history of the School, the curricular offerings have kept pace with the needs and trends of the nursing profession. A pre-service basic nursing program leading to the Bachelor of Science degree has been offered since 1921, and a baccalaureate degree program for graduate nurses since 1924. A graduate program leading to the Master's degree was approved in 1938. Affiliate courses in psychiatric and tuberculosis nursing for students from hospital schools of nursing have been offered since 1937.

All programs of the School, undergraduate and graduate, are fully approved by the Accrediting Service of the National League for Nursing. Both baccalaureate programs are approved for preparation for public health nursing.

The Division of Health Sciences of the University of Washington was established in the autumn of 1945 to include the Schools of Dentistry, Medicine, and Nursing, the College of Pharmacy, the Student Health Service, and the University Hospital. Each School or College within the Division of Health Sciences functions as an autonomous [fol. 160] unit. The Division coordinates development, research, and teaching activities to strengthen and reinforce the work of each unit.

The Health Sciences Building, which was completed in 1949, overlooks the Portage Bay Yacht Basin between Lake Washington and Lake Union. It houses the administrative units of the Schools of Dentistry, Medicine, and Nursing, classrooms, research and laboratory facilities, a library, and an auditorium. Future plans include a west wing to house the College of Pharmacy.

The University Hospital, which has a bed capacity of 300, was opened in May, 1959. It provides extensive in-patient and out-patient departments; thus, it is an excellent teaching and research facility for students in all health sciences fields.

The Health Sciences Library serves the schools and departments within the Division of Health Sciences, and is used by various other disciplines of the University. It has about 80,000 volumes (with stack space for 40,000 more), and subscribes to more than 1,500 periodicals. Library facilities include ten glass-panelled and soundproofed reading, study, and conference rooms, as well as adequate space for microfilm and microcard readers and special study groups. All other University library facilities are available to students and faculty members.

The School of Nursing acknowledges its responsibility for promoting complete nursing service for the people of the state of Washington through teaching, research, and public service. Complete nursing care embodies the recognition of the patient's physical, emotional, and spiritual needs. Kindness, tolerance, and understanding are essential to the fulfillment of a therapeutic patient-nurse relationship.

The School of Nursing believes that the qualified student brings to the professional school a background from which she makes her individual contribution to nursing. Opportunity for self-direction in the management of her own life is a part of personal and professional growth. Diversified interests promote cultural and emotional maturity. Breadth of academic background, which is gained through the use of all of the resources of the University, [fol. 161] contributes to fulfillment of professional responsibilities and personal interests. The physical, biological, and social sciences and the humanities are recognized as essential parts of the professional nursing curriculum.

Curricular offerings are planned to develop the professional nurse who is able to give complete nursing care within the framework of the physician's therapeutic design, to carry out nursing procedures skillfully and with understanding, to exercise discriminative judgment and insight,

and to assist in the prevention of disease and in the conservation of physical and mental health in her community. Better learning occurs where sound psychological principles are utilized. Correlated theory and clinical practice are offered in the care of the physically and mentally ill in the hospital and in the home and in teaching, treatment, rehabilitation, prevention, and health conservation for all age groups. Nursing experiences are planned to provide for continuity, sequence, and integration in all areas in order to effect gradual broadening and deepening of understandings, values, and skills. Individual counseling and supervision are directed toward helping the student to develop her personal and professional potentialities. This broad background of education followed by graduate professional experience prepares the nurse for advanced levels of service.

The School of Nursing believes that the professional nurse is characterized by the ability to give complete nursing care in all fields; to use the basic communication skills competently in organizing, planning, and directing the work of others; to cooperate democratically with allied professional and citizen groups for the improvement of total health services; to maintain her personal identity; and to attain individual satisfactions in her daily life at the same time as she serves her community. These responsibilities she accepts in contributing to nursing research, in upholding the ideals of the nursing profession, and in working toward its continued improvement and growth.

[fol. 162] In keeping with this philosophy, the School of Nursing works toward the attainment of the following objectives in the bachelor's curricula:

The School of Nursing endeavors to develop a nurse who is a mature, well-adjusted person capable of directing her own life, assuming responsibility for her own actions, and accepting her responsibility as a contributing member of social groups.

The School of Nursing endeavors to develop a nurse who is a professionally and technically competent person possessing an understanding of the physical, biological, and social sciences and the humanities essential to effective

nursing practice and who is skillful in meeting the nursing needs of the individual and community for care during illness and in the conservation of health.

The School of Nursing endeavors to develop a nurse who is a responsible professional person, as an individual and as a member of the health team, and who is capable of maintaining effective interpersonal, professional, and interprofessional relationships.

The School of Nursing endeavors to develop a nurse who is a responsible citizen capable of accepting her role as a contributing member of society and who is able to interpret her profession and professional activities to the community.

The School of Nursing endeavors to develop a nurse who is a creative individual capable of making her unique contribution to the improvement of nursing and who accepts responsibility for self-directed activity toward her own established goals.

The general philosophy of the School holds for graduate education in nursing also:

The School of Nursing believes that the University of Washington School of Nursing has an obligation to provide an environment and climate in which any professional nurse, who has met the entrance requirements of the Graduate School of the University and of the School of Nursing, may engage in study directed toward individual goals of [fol. 163] advanced professional competence; and that the curricula offered to candidates for graduate degrees, while containing a nucleus of required courses, should be sufficiently flexible to enable students to meet individual needs. Graduate education in nursing should enable the student to enlarge the view she holds of her profession and its relationship to society. Graduate study connotes that the student will increasingly assume independent responsibility for learning, scholarly investigation, and communication of the outcome of research.

The School of Nursing believes that it should promote and foster opportunities for individual, group, intra- and inter-disciplinary study and research, and for sharing the contributions which students engaged in graduate study can make to one another, to the School, and the profession.

The School of Nursing believes that the functions of the teacher in graduate education are to provide the environment and the climate within which the learner can learn, and to guide and counsel, and to share his knowledge with the learner.

The School recognizes that the objectives for the master's degree program are similar to those for the undergraduate degree program in content, but advance the level of competence which the learner should seek to attain. In order to qualify for a graduate degree every student should possess the ability to work effectively with others to meet the health needs of people and, since research in nursing is essential for the continuing growth of the profession, every student should increase the ability to use a scientific approach in solving nursing problems and to communicate findings in an appropriate manner. It is recognized that graduate study realistically must be directed toward intensive study in a selected area (or areas) of nursing and, therefore, the level of accomplishment in teaching supervisory or clinical skills, will vary for each student. Graduate study in any area of nursing implies that a student, regardless of age, kind or amount of experience, will be basically competent in nursing; it is, however, essential that a student who elects a clinical major for graduate study be basically competent in that clinical area.

[fol. 164] The School believes that the constantly-changing concepts and practices in nursing and the ever-increasing demands for nurses with graduate education support the convictions that: (1) the maximum freedom which is consistent with sound educational practice should be permitted graduate students in nursing in order that individuals with varying degrees of ability and experience may have equal opportunities to progress; and (2) that creative and critical thinking should be stimulated and disciplined by the study and practice of research methods, by conducting individual research and reporting findings.

The School of Nursing works toward the following objectives for graduate education in nursing:

Ability to work effectively with others to meet the health needs of people;

Ability to use scientific approach in solving nursing problems and to communicate findings in an appropriate manner;

Ability to perform skillfully in a selected area of nursing;

Ability to teach individuals and groups; and

Ability to use administrative skill.

The clinical teaching programs of the School of Nursing are conducted in a variety of hospitals and community agencies which cooperate with the School through making their facilities available for student instruction. In addition to the University Hospital, the School of Nursing uses the general facilities of King County Hospital System with a bed capacity of 450 in King County Unit I, and 220 in Unit II; Swedish Hospital with a bed capacity of 377; Virginia Mason Hospital with a bed capacity of 217; and The Doctor's Hospital with a bed capacity of 187. Special hospitals and agencies include the Children's Orthopedic Hospital with a capacity of 200 beds; Firland Sanatorium with a capacity of 1,086; and the state mental hospitals, Northern State Hospital, capacity 2273, Western State Hospital, capacity 3,007, and Eastern State Hospital, capacity 2,361. The psychiatric unit of the United States Veteran's Administration Hospital in Seattle, capacity 80 beds, provides an [fol. 165] additional facility in this area. Experience in public health nursing is arranged through the public health departments of Seattle-King County, Tacoma-Pierce County, Snohomish County, and the City of Spokane. Other community facilities are used as necessary to provide instruction for students.

[fol. 166] 10. *The College of Pharmacy*

The College of Pharmacy of the University of Washington was founded by the Board of Regents in July, 1894, and instruction was begun that autumn. The first year of instruction was given on the old campus in what was known as the "metropolitan section" of Seattle, before the University was moved, during the summer of 1895, to its present campus between Lake Washington and Lake Union. A

four-year curriculum leading to a bachelor's degree was established in 1904 and the present five-year curriculum was adopted in 1957. Graduate work was begun in 1912, with advanced study in preparation for the master's degree. Since 1925 the College has accepted candidates for the degree of Doctor of Philosophy with specialization in pharmaceutical chemistry, pharmacognosy, and pharmacy.

The College of Pharmacy is accredited by the American Council on Pharmaceutical Education. It is a member of the American Association of Colleges of Pharmacy.

The objectives of the College of Pharmacy are twofold: (1) The preparation for professional service of men and women who are academically and technically proficient in the basic sciences and their pharmaceutical applications, and who are educated in the liberal arts so that they may enjoy their cultural heritage and contribute to the betterment of society. (2) The advancement of knowledge, professional practice, and service through research.

The College of Pharmacy is a member of the Division of Health Sciences which was established in 1945. Included are the Schools of Dentistry, Medicine, and Nursing, the Student Health Service, and the University Hospital.

Each part of the Division of Health Sciences functions as an autonomous unit. The Division coordinates development, research, and teaching activities to strengthen and reinforce the work of each unit. For example, the Basic Sciences departments, meet the needs of the whole Division and of other departments of the University which [fol. 167] are concerned with work in anatomy, biochemistry, microbiology, pathology, pharmacology, physiology and biophysics, and public health and preventive medicine.

Instruction in pharmacy is centered in Bagley Hall, which houses pharmacy, chemistry, and chemical engineering. This building was completed in 1937 and was named for one of the founders of the University, Rev. Daniel Bagley.

Among the College of Pharmacy facilities in Bagley Hall are laboratories for pharmacy, prescription practice, manufacturing pharmacy, pharmaceutical chemistry, pharmacognosy, drug assaying, and research; a branch library; a drug service department; and a stockroom.

The University Hospital Pharmacy and the Student Health Center Pharmacy serve as clinical training facilities for the College. Senior students are assigned on a regular schedule to these pharmacies where they gain practical experience in compounding and dispensing prescriptions under the direction of staff pharmacists. The University Hospital Pharmacy and about ten other hospital pharmacies in Seattle serve as laboratories for the undergraduate and graduate programs in hospital pharmacy. The programs are directed by the Coordinator of Pharmaceutical Services, and laboratory instruction is given by the hospitals' chief pharmacists who hold the University rank of Clinical Instructors in Hospital Pharmacy.

The Drug Plant Gardens of the College comprise approximately three acres of garden area, including a laboratory building that contains five greenhouses; three research laboratories; drug drying, milling, and extraction equipment; a darkroom, and a preparation room. Several hundred species of pharmaceutically important plants are maintained in the gardens and greenhouses. One greenhouse is devoted to plants of tropical habitat; others are used for student instruction in methods of drug plant culture and for research in plant-growth regulators and the biosynthesis of plant constituents. An extensive seed exchange program is conducted with medicinal plant gardens throughout the entire world.

The drug service department manufactures specialized pharmaceutical preparations for the Schools of Medicine and Dentistry, the Student Health Service (Hall Health [fol. 168] Center), the University Hospital, and other sections of the University. Much of the work done by this department is in formulation and product development of drugs and dosage forms to be used in clinical and experimental research.

The College maintains a laboratory for the analysis of food products submitted by the Office of the Director of the State Department of Agriculture, drugs submitted by the State Pharmacy Board, and alcoholic products for the State Liquor Control Board. The Dean of the College is the State Chemist.

[fol. 169] 11. *The School of Social Work*

The School of Social Work was established in March, 1958, by the Board of Regents of the University of Washington. Prior to this date, instruction in social work was offered through the Graduate School of Social Work, a division of the Graduate School of the University.

Instruction in social work was first offered at the University in 1919 under the Department of Sociology. The Graduate Division of Social Work was established in 1934, and in 1939 it became the Graduate School of Social Work under the Graduate School. The School of Social Work was recognized as an independent professional school in 1958. It is fully accredited by the Accreditation Commission of the Council on Social Work Education.

The School of Social Work provides educational activities for: (1) an undergraduate curriculum in Social Welfare through affiliation with the Division of General Studies, College of Arts and Sciences; (2) a postbaccalaureate (graduate) professional curriculum preparing for positions of professional social work responsibility in public and private agencies; (3) a program of courses in the field of social welfare for graduate-level students in other units of the University; (4) a program of courses in the field of social welfare for students enrolled in the adult evening classes program; (5) a program of short courses, institutes, and workshops for professional practitioners who enroll in such postgraduate activities as the means to improve professional competence; (6) a program of courses, seminars, institutes, and workshops for staff members of social welfare agencies whose interests are allied to the professional practice of social work.

An on-going research program is conducted by members of the faculty and students.

The professional curriculum, one of the major program responsibilities for the School of Social Work, provides an educational experience which has been designed to prepare students:

[fol. 170] a. To help individuals, groups, or communities with what are to them unsatisfying social situations or with what are to society unsatisfactory social situations. These are social situations where:

(1) an individual, groups, or community is dissatisfied with his or its performance;

(2) an individual, group, or community violates explicitly stated requirements of society.

b. to expand the knowledge upon which social work practice is based.

c. To record and impart social work knowledge pertinent to social welfare.

[fol. 171] 12. *The School of Librarianship*

The University of Washington School of Librarianship was established in 1911 in response to the need for professionally trained librarians in the libraries of the Northwest.

The School was originally organized as an undergraduate department in the College of Liberal Arts. In the autumn of 1933 it became a part of the Graduate School and offered a one-year curriculum in librarianship leading to the degree of Bachelor of Arts in Librarianship. In 1952, following a major curriculum revision, the bachelor's degree was discontinued and a program leading to the degree of Master of Librarianship was inaugurated. The School of Librarianship is accredited by the Committee on Accreditation of the American Library Association and is a member of the Association of American Library Schools.

The School of Librarianship is in the south wing of the Henry Suzzallo Library Building. The book collection of the School contains the essential materials on librarianship, the William E. Henry collection of rare books, an outstanding collection of children's books, and a high school library collection. These materials are supplemented by the University Library with its numerous departmental and research libraries containing more than one million volumes. Students have access to the facilities of the Pacific Northwest Bibliographic Center and to the University's Film Center. The Seattle Public Library, the King County Public Library, and many school, college, and special libraries are available for observation and field work.

The basic program in librarianship is intended to prepare a selected group of college graduates for a professional career in library work. Programs are offered leading to the degrees of Master of Librarianship and Master of Law Librarianship. Undergraduate courses are also available to upper-division students who wish to qualify as teacher-librarians, to students in the College of Education who choose librarianship as a second area of concentration, and to students taking programs in other fields [fol. 172] who elect librarianship as a minor. An elective course in the Use of Books and Libraries is given each quarter as a service for the general University student.

The basic professional curriculum is organized around a group of studies designed to provide a sound foundation in the principles and methods of librarianship. These studies are required of all candidates for a degree in librarianship. In addition, the student elects courses which will prepare him for a special field of library service. Students who have a strong subject interest or who are preparing for special fields may elect up to 10 credits of graduate work in a subject field.

Each degree program comprises approximately 46 credits and normally requires four quarters for completion. The full program may be entered in either Autumn or Summer Quarter; a partial program may be started at the beginning of any quarter.

Librarianship is a nonthesis program, but a thesis is not precluded if a student wishes to engage in special investigation or research in a cognate field.

[fol. 173] 13. *The School of Law*

The School of Law was established at the University of Washington in 1899. It is presently housed in Condon Hall, named after John T. Condon, the organizer and first dean of the Law School. The building is designed and constructed for the particular needs of a law school.

The School is a member of the Association of American Law Schools and is approved by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association.

The objective of the faculty of the School of Law is to train young men and women for the practice of law anywhere in the United States, whether it be as advocate, counsellor, judge, or law teacher, in accordance with the highest traditions of professional responsibility. The study of law may also serve as the stepping-stone to a career in government, politics, or business. The curriculum and the methods of instruction are designed to develop in the student his highest potential, whatever may have been his reason for entering the school.

Since the problems of the individual litigant or client are at the same time a part of the larger problems of an enormously complex and competitive society, it is necessary in the training of effective practicing lawyers and judges to provide the widest possible perspective of history, economics, social sciences, and philosophy. It is essential that the student see and understand the law, not as a self-contained system designed primarily for the settlement of disputes between individuals, but as a decisive, if not the dominant, factor of social control in a society which is in constant flux. Thus the law is not, and cannot be, static. The man who is "learned in the law", as the old phrase put it, is still the one who has developed the ability to find sound solutions to new problems by developing and using, rather than merely echoing, the teachings of the past.

Methods of instruction vary with the instructor and the course. The basic materials are the actual decisions of ap- [fol. 174] pellate courts, supplemented by selected readings from other sources which shed light on the nature of judicial, administrative, and legislative processes. Classroom techniques encourage the student to rely upon his own initiative and to develop his powers of perception and communication.

The first two years of the curriculum are devoted to the study of basic courses and are required of all students. The third year is almost wholly elective, so that the student, in the light of his own developed interests, may delve more deeply into those subjects which he thinks will best suit his needs.

In the Winter Quarter of 1962, the School of Law established its program in the Law of Asian Countries. Supported by funds from the Ford Foundation, this program will place its initial research emphasis on the legal aspects of foreign investments, licensing, and trade, starting with Japan, and extending in due course to other Asian countries such as the Philippines, India, Malaya, and China.

Courses are offered on various aspects of the legal problems likely to be encountered in dealing with Asian affairs. The research and teaching programs are designed to develop materials not presently available to western legal scholarship and to meet the growing demand for lawyers and scholars trained in such matters.

The Law School Library contains over 144,000 volumes; included are decisions of all English and American courts of last resort and the reported decisions of all lower courts of the United States. Extensive collections of English, American, and colonial statutes are available, as are copies of all legal periodicals published in English.

In addition, the Law School Library has one of the best collections of Japanese law materials in the United States and other substantial Asian collections which are being augmented rapidly by use of new funds obtained from the Ford Foundation.

The School of Law is within a convenient distance of federal and state courts sitting in Seattle, and students can witness the trial of actual cases. The United States District Court is in session and tries cases almost continuously. [fol. 175] The United States Court of Appeals for the Ninth Circuit holds a session in the city each year. The superior court for King County, the justice courts, the municipal court, and the juvenile court are in session throughout the school year. The Supreme Court of the State of Washington, at Olympia, is also within comparatively easy reach and provides opportunities for students to hear the argument of cases on appeal.

[fol. 176] 14. *The School of Medicine*

The School of Medicine offers a four-year program of courses leading to the degree of Doctor of Medicine (M.D.),

programs leading to the Master of Science and Doctor of Philosophy degrees for students in the Graduate School, programs leading to Bachelor of Science degrees in Physical Therapy and in Occupational Therapy and Rehabilitation, and courses for practicing physicians. The four-year curriculum for an M.D. degree includes studies in three main areas: Basic Health Sciences, Conjoint Courses, and Clinical Sciences. In the Basic Health Sciences, the Departments of Anatomy, Biochemistry, Genetics, Microbiology, Pathology, Pharmacology, Physiology and Biophysics, and Public Health and Preventive Medicine offer courses for medical, dental, nursing, and pharmacy students, and for students in other University curricula. Conjoint Courses, sponsored jointly by various departments, are designed to integrate teaching in different medical fields. In the Clinical Sciences, the Departments of Anesthesiology, Medicine, Obstetrics and Gynecology, Pediatrics, Physical Medicine and Rehabilitation, Psychiatry, Radiology, and Surgery provide clinical study in the fields of medical specialization and in general medical practice.

The main purpose of the School of Medicine is to provide a solid foundation for the student's future development. The student must learn fundamental principles which are significant to the entire body of medical knowledge. He must, if he has not already done so, acquire habits of reasoning and critical judgment of evidence and experience in order that he may use the fundamental principles wisely in solving problems of health and disease. The educational program is also designed to inculcate on the student sound habits of self-education and the mastery of certain basic clinical and social skills. Every effort is made to develop sound attitudes regarding the people whom the student will serve and to instill a thorough understanding of professional and ethical principles. The four-year education program is planned to achieve these objectives.

The School of Medicine is approved by the Council on [fol. 177] Medical Education and Hospitals of the American Medical Association and by the Association of American Medical Colleges. It is a participating member of the Western Interstate Commission for Higher Education.

The School of Medicine through its departments and inter-departmental programs offers curricula leading to the degrees of Doctor of Medicine and Bachelor of Science in Physical Therapy and in Occupational Therapy, and graduate study leading to the degrees of Master of Science and Doctor of Philosophy in accordance with the requirements of the Graduate School.

Doctor of Medicine. Upon completion of the four-year curriculum of the School of Medicine, the M.D. degree is awarded to candidates who have (1) given evidence of good moral character; (2) completed the last two years of medical training as regularly matriculated students in the School of Medicine; (3) satisfactorily completed the required work throughout the course; (4) fulfilled all special requirements; and (5) discharged all indebtedness to the University.

Doctor of Medicine With Honor. Those students who meet the above requirements and whose work places them in the highest ten per cent of the graduating class receive a Doctor of Medicine with honor.

Bachelor of Science. A curriculum leading to a bachelor's degree with a major in public health and preventive medicine is offered for students in the College of Arts and Sciences. Professional courses in the curriculum are given by the Department of Public Health and Preventive Medicine in the School of Medicine. Public health students may choose an option in environmental health, biometry, or health education.

Bachelor of Science in Medical Technology. The medical technology program is designed to train young men and women to become technologists in hospital, clinic, and medical-research laboratories. The first part of the course consists of three years in the College of Arts and Sciences, with training in chemistry, zoology, physics, physiology, anatomy, histology, and microbiology. Upon successful completion of the three-year program, students may apply for admission to the final part of the course, which is offered by the Department of Pathology in the School of Medicine. [fol. 178] This eighteen-month period consists of both class instruction and practical supervised work in hospital and medical-research laboratories.

Bachelor of Science in Physical Therapy. A curriculum in physical therapy is offered by the Department of Physical Medicine and Rehabilitation in the School of Medicine. It provides professional training in the basic sciences and the clinical use of accepted physical therapy modalities and procedures.

Bachelor of Science in Occupational Therapy. A curriculum in occupational therapy is offered by the Department of Physical Medicine and Rehabilitation in the School of Medicine. It provides professional training in the basic sciences and the clinical use of occupational therapy.

Bachelor of Science in Basic Medical Science. The basic science degree may be taken at the end of the first year in the School of Medicine by students who have completed at least the third year of premedical training and the first year of the medical course at the University of Washington and have a grade-point average of at least 2.50 in college and the School of Medicine combined. Students who wish to qualify for this degree must complete University requirements for graduation as well as the requirements of the college and department in which the three years of premedical work were taken.

Master of Science and Doctor of Philosophy. Work leading to master degrees and Doctor of Philosophy degrees is offered, in accordance with the requirements of the Graduate School, in the Departments of Anatomy, Biochemistry, Microbiology, Pharmacology, Physiology and Biophysics. A master's degree program is offered by the Department of Surgery.

Internships of one-year duration in clinical medicine are available at the University Hospital, the King County Hospital, and the Children's Orthopedic Hospital. All clinical departments participate in the training program for interns in one or more of these institutions. Residency training programs are available in the clinical fields of anesthesiology, cardiology, general surgery, medicine, neurology, neurosurgery, obstetrics, gynecology, orthopedic surgery, pathology, pediatrics, physical medicine and rehabilitation, psy- [fol. 179] chiatry, radiology, and urology. The residency programs vary in duration from two to five years and are

integrated, providing for rotation through several of the University affiliated hospitals during this period of training.

Postdoctoral fellowships and traineeships are available in all basic health sciences and clinical departments. They are designed to provide further research and teaching experience for the advanced student who has already obtained his Ph.D. or M.D. degree.

The School of Medicine functions as a center for continuing medical education for physicians in the region. A series of short courses (in general extending from one day to one week) designed primarily for the general physician is offered at various times throughout the year. The clinical faculty, with the assistance of basic science investigators, plans and gives courses which provide the practicing physician with an opportunity to review fundamental concepts and to go into recent advances in diagnosis and treatment in some depth in specialized fields, such as cardiology, electrolyte and fluid balance, gastroenterology, hematology, infectious diseases, neurology, metabolism, allergy, practical psychiatry, emotional problems in children, gynecologic and obstetric endocrinology, and so forth.

The School cooperates with the Washington State Department of Health and other governmental agencies, physicians' organization, and voluntary organizations in developing refresher courses in cancer, diseases of the heart, diabetes, alcoholism, safety, and so forth.

Physicians are always welcome to participate in the regular rounds and conferences scheduled in the University Hospital and clinics and the hospitals affiliated with the University in the teaching program. Physicians are also urged to attend the conjoint clinical conferences held each Saturday morning for students and staff.

Refresher courses are extended to other health professions such as medical technologists, physical therapists, and occupational therapists.

[fol. 180] 15. *The School of Dentistry*

The School of Dentistry offers a four-year program of courses leading to the degree of Doctor of Dental Surgery

(D.D.S.); programs leading to the Master of Science in Dentistry for students in the Graduate School; and courses for practicing dentists. The four-year curriculum for the D.D.S. degree includes study in two main areas: Basic Sciences and Clinical Dental Sciences. Instruction in the basic sciences is provided by the Departments of Anatomy, Biochemistry, Microbiology, Pathology, Physiology and Biophysics, Pharmacology, and Public Health and Preventive Medicine of the Health Sciences Division. In the clinical dental sciences the Departments of Dental Science and Literature, Dental Materials, Fixed Partial Dentures, Operative Dentistry, Oral Diagnosis and Treatment Planning, Oral Pathology, Oral Surgery, Orthodontics, Pedodontics, Periodontics, Endodontics, and Prosthodontics provide instruction in the fields of general dental practice and dental specialization.

The objective of the School of Dentistry is to provide a foundation for the student's future development. The program of instruction is designed to provide the student with the opportunity to learn fundamental principles which are significant to the entire body of dental knowledge. It is expected that the student will acquire habits of reasoning and critical judgment in order that he may use the fundamental principles wisely in solving problems of dental health and disease. The Dental School expects its students to learn the fundamentals of the basic health sciences, to master certain clinical skills and to acquire a thorough understanding of professional and ethical principles. The four-year educational program is planned to achieve these objectives.

The School of Dentistry is approved by the Council on Dental Education of the American Dental Association and is a member of the American Association of Dental Schools. It is a participating member of the Western Interstate Commission for Higher Education.

The Department of Dental Hygiene is an integral part [fol. 181] of the School of Dentistry with the same basic objectives and offers courses of instruction leading to a Bachelor of Science degree with a major in Dental Hygiene or Public Health Dental Hygiene.

The School of Dentistry offers courses leading to the degrees of Doctor of Dental Surgery (D.D.S.), Bachelor

of Science, Bachelor of Science in Basic Medical Science, Master of Science in Dentistry, as well as Certificates in orthodontics, pedodontics, or restorative dentistry.

Doctor of Dental Surgery. Upon completion of the four-year curriculum of the School of Dentistry, the D.D.S. degree is awarded to condidates who have (1) given evidence of good moral character; (2) completed the last two years of dental training as regularly matriculated students in the School of Dentistry; (3) satisfactorily completed all the required work with a grade-point average of at least 2.00; (4) fulfilled all special requirements; and (5) discharged all indebtedness to the University.

Work leading to the following degrees is also offered in the School of Dentistry.

Bachelor of Science. The curriculum leading to this degree is given by the Department of Dental Hygiene.

Bachelor of Science in Basic Medical Science. This degree may be taken at the end of the first year in the School of Dentistry by students who have completed at least the third year of predental training and the first year of the dental course at the University of Washington and have a grade-point average of at least 2.50 in college and Dental School combined. Students who wish to qualify for this degree must have completed University requirements for graduation as well as the requirements of the college and department in which the three years of predental work were taken.

Master of Science in Dentistry. Work leading to this degree is available through the Graduate School.

Certificate in Orthodontics, Pedodontics, or Restorative Dentistry. Programs are not administered by the Graduate School; no thesis is required.

[fol. 182] 2. With the exceptions of plaintiffs who have been dismissed from this cause, Rocky Bauer, Jay Patrick Donaly, Roberta Milowe and Wayne C. Muller and who are contracting students paying tuition to the University of Washington, all remaining plaintiffs, at all times material to this cause, are employees, in various capacities, and perform duties pursuant to their contracts of employment with the State of Washington being hired and em-

ployed by the University of Washington. The plaintiffs so employed are listed below, and those having tenure are so specified:

1. Lawrence W. Baggett, employed as a teaching assistant in mathematics and is a registered graduate student. His employment began June 16, 1961.

2. Z. W. Birnbaum, employed as a professor and director of mathematics, with tenure. His employment began in September of 1939, and he acquired tenure October 1, 1945.

3. Joost A. Businger, employed as an associate professor of meteorology and climatology, with tenure. His employment began September 16, 1958.

4. Isabel S. Caro, employed as an assistant professor of anthropology. Her employment began August 1, 1960.

5. Giovanni Costigan, employed as a professor of history, with tenure. His employment began in 1934, and he acquired tenure May 1, 1942.

6. G. Dash, employed as an associate professor of physics, with tenure. His employment began August 16, 1960, and he acquired tenure in 1961.

7. William A. Dawson, employed as a research instructor in Oceanography. His employment began March 1, 1960.

8. David M. Eaves, employed as a teaching assistant in mathematics. His employment began September 16, 1961.

9. John M. Emlen, employed as a teaching assistant in zoology. His employment began September 16, 1961.

10. T. Saunders English, employed as an assistant professor in Oceanography. His employment began September 16, 1959.

[fol. 183] 11. Victor Erlich, employed as a professor of Slavic languages and literature, with tenure. His employment began September 16, 1948, and he acquired tenure in 1952.

12. Robert G. Fleagle, employed as a professor of meteorology and climatology, with tenure. His employment began September 16, 1948, and he acquired tenure September 16, 1951.

13. Ronald Geballe, employed as a professor of physics, with tenure. He is the executive officer of the Physics department. He was hired August 26, 1943, and he acquired tenure September 16, 1954.

14. Patrick D. Goldsworthy, employed as a research assistant professor and lecturer in bio-chemistry of medicine. His employment began September 1, 1952.

15. Milton P. Gordon, employed as an assistant professor of biochemistry. He was hired June 1, 1959.

16. Alvin D. Greenberg, employed as a teaching assistant in English and is a registered graduate student. His employment began September 16, 1961.

17. Robert E. Greengo, employed as an assistant professor of anthropology. His employment began June 1, 1957.

18. Gordon Griffiths, employed as an associate professor of history, with tenure. His tenure began with the date of his employment on August 16, 1959.

19. W. Mary Griffiths, employed as an acting assistant professor of zoology. Her employment began September 16, 1959.

20. Isaac Halpern, employed as a professor of physics, with tenure. His employment began on August 16, 1953, and he acquired tenure in 1956.

21. Arnold Hanson, employed as a micrometeorologist. His employment began April 1, 1959.

22. W. Stull Holt, employed as a professor of history, with tenure. His tenure began with his employment on September 1, 1940.

23. Abraham C. Keller, employed as an associate professor of romance languages, with tenure. His employment

began on August 16, 1948, and he acquired tenure on [fo]. 184] September 16, 1952.

24. Arthur L. Kobler, employed as a research associate professor part-time of electrical engineering. His employment began on July 1, 1961.

25. Scott Lytle, employed as an associate professor of history, with tenure. His employment began on August 16, 1949, and he acquired tenure in 1954.

26. Robert W. Macdonald, employed as an assistant professor of social work. His employment began on October 1, 1957.

27. D. F. Magee, employed as an associate professor of pharmacology, with tenure. His employment began on December 15, 1951, and he acquired tenure in 1957.

28. Henry W. Maier, employed as an associate professor of social work, with tenure. His employment began on August 16, 1959, and he acquired tenure in 1960.

29. William H. Matchett, employed as an associate professor of English, with tenure. He was hired on September 16, 1954, and he acquired tenure in 1960.

30. Karl P. Mauzey, employed as a research assistant in zoology. He was hired on September 16, 1960.

31. Trevor J. McMinn, employed as an assistant professor of mathematics. His employment began September 16, 1956.

32. Irving Milowe, employed as a clinical instructor in psychiatry in the medical school. His employment began August 1, 1961.

33. Rhoads Murphey, employed as an associate professor of geography, with tenure. His employment began August 15, 1952, and he acquired tenure on September 16, 1956.

34. David S. Newman, employed as an instructor in mathematics. His employment began on September 16, 1961.

35. Howard Nostrand, employed as a professor of Romance languages and literature, with tenure. He is the executive officer of the Romance Language and literature department. His employment began September 1939, and he acquired tenure at that time.

[fol. 185] 36. Gordon H. Orians, employed as an assistant professor of zoology. His employment began September 1, 1960.

37. Simon Ottenberg, employed as an associate professor of anthropology, with tenure. His employment began September 16, 1955, and he acquired tenure in 1961.

38. Jack R. Parsons, employed as an associate professor of social work, with tenure. His employment began September 16, 1955, and he acquired tenure in 1957.

39. Eugene C. Pizzuto, employed as an assistant professor of art, with tenure. His employment began September 16, 1957.

40. Melvin Rader, employed as a professor of philosophy, with tenure. His employment began in 1930, and he acquired tenure in 1944.

41. Kenneth Eyre Read, employed as an associate professor of anthropology, with tenure. He is the executive officer of the Anthropology department. He was hired November 16, 1956 and he acquired tenure September 16, 1958.

42. Max Savelle, employed as a professor of history, with tenure. He acquired tenure at the beginning of his employment September 16, 1947.

43. Annick Smith, employed as an assistant editor of the University of Washington press. Her employment began September 25, 1961.

44. C. A. Valentine, employed as a visiting assistant professor of anthropology. His employment began September 16, 1961.

45. Leslie Warner, employed as a secretary-typist by the University of Washington. Her employment began March 7, 1962.

46. James B. Watson, employed as a professor of anthropology, with tenure. His employment began August 1, 1955, at which time he acquired tenure.

47. Walter B. Watson, employed as an assistant professor of sociology. His employment began September 16, 1958.

48. Philip E. Wilcox, employed as an associate professor of biochemistry, with tenure. His employment began July 1, 1952 and he acquired tenure in 1957.

[fol. 186] 49. Theodore W. Wilcox, employed as a research assistant in the Research Computer Laboratory. His employment began September 16, 1960.

50. William B. Woolf, employed as an assistant professor in the mathematics department. His employment began August 16, 1959.

51. Paul Dietrichson, employed as an associate professor in philosophy. His employment began August 16, 1955 and he acquired tenure in 1961.

52. Jon Bridgman, employed as an assistant professor in history. His employment began August 16, 1961.

53. Boris A. Jacobsohn, employed as a professor in physics with tenure. His employment began in September 16, 1948 and he acquired tenure on August 16, 1955.

54. Patricia J. Keller, research assistant professor in biochemistry. Her employment began September 1, 1955.

55. Lucille L. Curtis, employed as a secretary-typist in the department of history. Her employment began August 1, 1961.

56. Albert Nujenhuis, employed as a professor of mathematics with tenure. His employment began November 16, 1956 and he acquired tenure in 1962.

57. Richard Morrill, employed as an assistant professor in geography. His employment began September 16, 1958.

58. Willis Konick, employed as a full-time instructor in the Far Eastern department (Russian section). His employment began September 16, 1959.

59. Robert G. Clarke, employed as a detailer one-half time at the cyclotron department. His employment began February 1, 1962.

60. Theodore Lane, employed as a teaching assistant in the economics department. His employment began September 16, 1961.

3. The following plaintiffs are aliens:

1. Joost E. Businger, a citizen of Holland, and professor of mathematics, with tenure. He has filed a petition to become a citizen of the United States.

[fol. 187] 2. Kenneth Eyre Read, a citizen of Australia, associate professor of anthropology, with tenure, and executive officer of the anthropology department.

3. Paul Dietrichson, a citizen of Norway, and associate professor of philosophy, with tenure.

4. All remaining plaintiffs except those named in the paragraph immediately above are citizens of the United States of America.

5. The defendants at all times material to this cause are as follows:

1. Charles E. Odegaard, duly appointed and acting President of the University of Washington.

2. The duly appointed and acting members of the Board of Regents of the University of Washington:

(1) Dorothy Builitt (President)

(2) Albert Murphy

(3) Joseph Drumheller

(4) John L. King

(5) Herbert S. Little

(6) Robert J. Willis

(7) Harold S. Shefelman

3. John J. O'Connell, duly elected and acting Attorney General of the State of Washington, having the duty of en-

forcing and interpreting, on behalf of the State of Washington, the statutes of the State of Washington. He is the legal advisor of the defendant regents and of the University of Washington.

6. As reproduced below and as set forth in Chapter 97, Subchapter I, Laws of 1909 of the State of Washington, the immediate government of the University of Washington has been vested in its faculty under such rules prescribed by the Board of Regents:

> "The faculty of the University of Washington shall consist of the president and the professors, and said faculty shall have charge of the immediate government of the institution under such rules as may be prescribed by the board of regents."

[fol. 188] 7. As reproduced below and as set forth in Chapter 176, Laws of 1939 of the State of Washington, the ultimate governing power over the University of Washington has been vested by the legislature of the State of Washington in the Board of Regents:

> "The Board of Regents may adopt by-laws or rules and regulations for its own government. The powers and duties of the Board of Regents are as follows:
>
> "first. The said board shall have full control of the university and its property of various kinds, and shall employ the president, members of the faculty, assistants and employees of the institution, who shall hold their positions during the pleasure of said Board of Regents."

8. The defendant Charles E. Odegaard upon the direction of the defendant regents, and subject to such regulations and delegations of powers as the regents have promulgated, employs and discharges from employment, on behalf of the State of Washington, all persons employed at the University of Washington, except those who are officers of the university whose appointments, promotions, demotions and dismissals are recommended to the Board of Regents for action.

9. One statute, hereinafter called the "1931 oath" and the constitutionality of which is in issue here, is found in Chapter 103, Laws of 1931, of the State of Washington hereafter set forth. It requires an oath of allegiance from all teachers. It does not apply to all state employees.

> RCW 28.70.150. "Oath of allegiance required. Every person applying for a certificate to teach or making a contract to teach in the state shall take and subscribe to the following oath or affirmation:
>
> "I solemnly swear (or affirm) that I will support the Constitution and laws of the United States of America and of the state of Washington, and will by precept and example promote respect for the flag and the institutions of the United States of America and the state of Washington, reverence for law and order and undivided allegiance to the government of the United States."
>
> "Any certificate or contract to teach in the state shall be void unless it affirmatively appears on the application for the certificate or in the contract, that the teacher has taken, subscribed, and filed therewith the foregoing oath or affirmation."

An issue in this case is whether this statute violates the Constitution of the United States of America.

10. For many years, the past practice at the University of Washington with regard to citizens of the United States of America and at all times material to this cause, has been that of requiring and obtaining the 1931 oath from all its [fol. 189] non-alien teaching personnel, except during the past seven years because the injunction granted in Nostrand v. Little, *infra*, was in force. When this injunction was dissolved, then pursuant to statute a demand was made by President Odegaard on May 28, 1962, that the oath form A here in question be executed.

For many years, the past practice at the University of Washington with regard to teaching faculty who are aliens, and at all times material to this cause, has been similar to

that suggested by the memorandum circulated through the department of Mathematics and reproduced below:

Department of Mathematics

June 1, 1962

Members of the Faculty and
Graduate Students

Subject: Modification of Loyalty Oath for Non-Citizens

Word has been received from the President's Office that non-citizens of the United States will be asked to sign a modified form of the loyalty oath which was distributed to you a few days ago.

The last clause of the first sentence which reads "and undivided allegiance to the government of the United States" may be replaced by the phrase "insofar as it is compatible with my citizenship in ————————."

I trust that this will alleviate worries on the part of those of you who could not have signed the oath in its original form.

Yours sincerely,

/s/ Carl B. Allendoerfer
Carl B. Allendoerfer

CBA:be

The 1931 oath has been expressly enacted in approved statutory language by the legislature of the State of Washington. Alien members of the teaching faculty have not been asked to subscribe to the oath during the past seven years because the injunction granted in Nostrand v. Little, [fol. 190] *infra*, was in force. When this injunction was dissolved, then pursuant to statute, a demand was made by President Odegaard, on May 28, 1962, that all members of the teaching staff, including aliens, execute the oath form A here in question.

11. In order to promote its educational purposes, the University of Washington has undertaken to act as the

sponsor for aliens of high academic merit who have been selected to fill faculty positions, temporary or permanent, and who must, therefore, immigrate to the United States, obtain a visa and be in residence on or about the campus during the tenure of their appointment at the University of Washington.

12. The other statutes material to this cause and whose constitutionality are contested here require that as a condition of employment, all state employees take a "loyalty oath", i.e., they must file a disclaimer. These statutes are hereinafter referred to as requiring the "1955 oath" and are part of the Subversives Activities Act of the State of Washington being Chapter 377, Laws of 1955, amending Chapter 254, Laws of 1951. The relevant portions questioned here are set out below:

Subversive Person Ineligible for Public Employment.

"No subversive person, as defined in this act, shall be eligible for employment in, or appointment to any office, or any position of trust or profit in the government, or in the administration of the business, of this state, or of any country, municipality, or other political subdivision of this state." (RCW 9.81.060).

Definition of Subversive Person, Subversive Organization, and Foreign Subversive Organization.

"'Subversive person' means any person who commits, attempts to commit, or aids in the commission, or advocates, abets, advises or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or any political subdivision of either of them by revolution, force, or violence; or who with knowledge that the organization is an organization as described in subsections (2) and (3) hereof, becomes or remains a member of a subversive organization or a foreign subversive organization. (RCW 9.81.010(5)).

"'Subversive organization' means any organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, by revolution, force or violence. (RCW 9.81.010(2)).

[fol. 191] "'Foreign subversive organization' means any organization directed, dominated, or controlled directly or indirectly by a foreign government which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or to advocate, abet, advise, or teach, activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, and to establish in place thereof any form of government the direction and control of which is to be vested in, or exercised by or under, the domination or control of any foreign government, organization, or individual." (RCW 9.81.010(3)).

Communist Party Declared to Be Subversive Organization.

"The Communist party is a subversive organization within the purview of Chapter 9.81 and membership in the Communist party is a subversive activity thereunder." (RCW 9.81.083).

Oath Required of Employees of State of Washington.

". . . Every such person, board, commission, council, department, court, or other agency shall require every employee or applicant for employment to state under oath whether or not he or she is a member of the Communist party or other subversive organization, and

refusal to answer on any grounds shall be cause for immediate termination of such employee's employment or for refusal to accept his or her application for employment." (RCW 9.81.070).

13. The Subversive Activities Act statutes set out in the paragraph immediately above do not describe an oath or disclaimer in statutory terms. The Attorney General's office has the duty, and has prepared, at least two oath forms under that statute. One was presented to the faculty in 1955, and the other in 1962.

14. Two separate oaths are by state law required of the teaching faculty of the University of Washington. They are the 1931 oath of allegiance and the 1955 loyalty or disclaimer oath, and are found on Oath Form A.

15. Only one oath, the 1955 oath, is required of non-teaching faculty of the University of Washington. It is found on Oath Form B.

16. For purposes of taking the oaths which are in question here, the "teaching faculty" of the University of Washington is properly defined by the second paragraph of a memorandum of June 4, 1962, from Provost of the University, F. P. Thieme, directing University Deans, Directors and Chairmen of departments to begin administering the oaths to University personnel and which is totally here incorporated into this order and is reproduced herein as follows:

[fol. 192] Memorandum to Deans, Directors, and Chairmen

Subject: Statutory Statement and Oath for Faculty and Staff

You have already received a statement of May 28 indicating that the University of Washington is now under legal obligation once again to ask that oaths be signed. I am now writing to expand the initial statement with respect to the process to be followed in obtaining the signatures. The May 28 statement con-

tained a description of the background leading up to the present statutory requirement that we again ask teaching faculty and all other personnel on the staff to sign a statement and oath and gave the form to be used. Copies of the two statements and oaths, Form A for the teaching faculty and Form B for all other members of the staff, are attached.

To enable the University to carry out these responsibilities, you are asked to request all persons having teaching responsibility, who have not previously signed the appropriate oath, to sign Oath Form A. For the purposes of this statement and oath, teaching faculty is interpreted as including all teaching fellows, pre-doctoral associates, lecturers, instructors, and the professorial ranks. If research appointees holding professorial titles actually engage in any kind of teaching, as determined by the academic officer who is responsible for the assignment of their duties, they should be asked to sign Oath Form A. If they do not have teaching responsibilities, then they must be asked to sign Form B. Whether the person is paid from general University funds or contract and grant funds administered by the University is irrelevant.

Oath Form B should be signed by all other members of the University staff, whether paid on full-time, part-time, or hourly basis and whether they are a student or not. Again, any person who has previously signed the appropriate statement and oath need not repeat it.

It is evident that the task of obtaining all of these notarized signatures will be protracted and time consuming. Therefore, I am sending to you in this mail a supply of Oath Form A and B with the suggestion that those who wish to complete the form prior to the October 1, 1962 deadline be encouraged to do so since it will reduce the costs of administration in meeting statutory requirements if as many persons as possible will complete the form in the course of the summer and thus reduce the "crash" clerical operation which would otherwise have to be faced near October 1, 1962.

As October 1 approaches, it will be necessary to check the forms received against the total list of appointments or payroll records. For this reason each director or chairman is asked to take whatever means he wishes to devise and keep a record of those under his administrative supervision who have signed the new forms. My office will soon prepare a list of persons in your unit who have already signed and thus need not submit a new Oath Form A or B. Thus by October 1 each of you should know whether the entire staff under your supervision will have signed the oath and thus be eligible for continuation on the payroll after that date.

In order to make the task as easy as possible, the following employees on the campus will serve to notarize signatures during regular office hours:

[fol. 193]

Name	*Department*
Miss Betty Gahringer	Registrar's Office
Professor W. M. Read	University Press
Mrs. Sally Hall	Hospital
Mr. James Reilly	Applied Physics Laboratory
Miss Grace Uyeda	Health Sciences Business Office
Mr. Harry W. Seymour	Registrar's Office
Mr. G. L. Goodson	Hospital
Miss Louise B. Carroll	Engineering
Mrs. Aline Foster	Cashier's Office
Mrs. Betty Thumlert	Payroll

If other names are added, you will be informed of them.

Your attention is also called to the need for informing appointees who are to be on duty October 1, but who have not yet reported on the campus hat they must sign the oath. These persons, as well as prospective faculty appointees and employees should be sent a copy of the oaths, *and of the explanatory statement of May 28, 1962.* Signed forms from these persons must be in our hands by October 1, 1962, or at the time of their employment if subsequent to that date.

If you have any questions regarding procedures to be followed, please address your inquiry to your dean or division head. If additional copies of the forms and of the statement of May 28 are needed, they can be obtained by calling the Payroll Office, Extension 2668.

/s/ F. P. Thieme
F. P. Thieme
Provost

17. The required 1955 oath and its supporting statutes have been the subject of prior litigation.

Sometime before August 29, 1955, all employees of the University of Washington were asked to sign an oath fulfilling the requirement of the 1955 statute and all teaching faculty were asked to sign both the 1931 and an oath then drafted to meet the 1955 statute.

On August 29, 1955, two professors, with tenure, Howard L. Nostrand and Max Savelle, as individuals and not as representatives of a class, filed a complaint in the Superior Court of the State of Washington for Thurston County (No. 28814). This complaint, attacking the 1955 oath, sought injunctive relief and a judgment declaring unconstitutional Chapter 377, Laws of 1955, amending Chapter 254 Laws of 1951 (RCW 9.81). The complaint did not attack the 1931 oath. The oath form presented to the faculty contained not only the statutory wording required by the 1931 oath, but also a second paragraph designed to meet [fol. 194] the requirements of the 1955 Act. Appended to the complaint in that action as Appendix "A" and reproduced immediately below is a copy of the oath form then used by the University of Washington and then presented to the University teaching faculty:

Oath As Presented to Professors Nostrand and Savelle Prior to Action of Nostrand vs. Little

"STATE OF WASHINGTON
OATH FOR ADMINISTRATIVE RESEARCH, AND
FACULTY PERSONNEL OF THE UNIVERSITY
OF WASHINGTON

Department, office or other agency (Print or type) | Title or Position (Print or Type)

State of .....
County of .....

ss. AFFIDAVIT

I, the undersigned, do solemnly swear (or affirm):

(1) That I will support the constitution and laws of the United States of America and the State of Washington, and will by precept and example promote respect for the flag and the institutions of the United States of America and the State of Washington, reverence for law and order, and undivided allegiance to the government of the United States;

(2) That I am not a subversive person or a member of the Communist Party or any subversive organization, foreign or otherwise, which engages in or advocates, abets, advises, or teaches the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the State of Washington, or of any political subdivision of either of them by revolution, force or violence;

That this statement is voluntarily made by me, pursuant to the provisions of Chapter 377, Laws of 1955, with full knowledge that the same is subject to the penalties of perjury.

.....
(Signature)

Subscribed to and sworn to (or affirmed) before me this ..... day of ....., 1955, at .....
(City or Place) — (State)

Notary Public in and for the State ....., residing at .....

(To be executed in duplicate, one copy to be retained by individual.)"

The Superior Court for the State of Washington, Thurston County, entered its final decree in the cause on April 29, 1957, which provided:

[fol. 195] "It is Hereby Ordered, Adjudged and Decreed that Chapter 377, Laws of 1955 violates the Constitution of the State of Washington, and is therefore void and no effect;"

That court enjoined the entirety of Chapter 377, Laws of 1955.

On January 29, 1959, the Supreme Court of the State of Washington, in cause No. 34451, modified the decree of the Superior Court for the State of Washington, Thurston County. The Supreme Court held that Section 3 of Chapter 377, Laws of 1955 (RCW 9.81.082) was severable and unconstitutional and that defendants be perpetually enjoined from enforcing that section which is and has been the situation, during all times material to this cause. That section provides:

"for the purpose of the act, membership in a subversive organization shall be membership in any organization after it has been placed on the list of organizations designated by the attorney general of the United States as being subversive pursuant to executive order No. 9835."

The Supreme Court of the State of Washington upheld, over all attack, the constitutionality of the 1955 oath and its supporting statutes.

On appeal of the decision of the State Supreme Court described immediately above to the United States Supreme Court in cause No. 342, October term, 1959, resulted in a *per curiam* decision; with two dissents, which vacated the decision of the State Supreme Court for the State of Washington and remanded the case to that court for a determination whether the statutes supporting the 1955 oath afforded employees of the State of Washington a hearing "at which the employee can explain or defend his refusal to take the oath" (362 U.S. 474).

On the remand to the Supreme Court of the State of Washington that court held that the statutes requiring the 1955 oath did not afford plaintiffs such a hearing, but that such a hearing was provided plaintiffs who, having tenure, were entitled to a hearing because of their peculiar university status:

> "We conclude that the professors are not entitled to a hearing under Section 15 of the 1951 Act, but, as stated above are entitled to a hearing before the tenure committee, because the rules and regulations adopted by the regents (which form a part of their contracts of employment) so provide."

[fol. 196] The decision of the Supreme Court for the State of Washington described immediately above was appealed to the United States Supreme Court and that Court, with two dissents, granted a motion to dismiss in a *per curiam* decision which is herein reproduced: "The motion to dismiss is granted and the appeal is dismissed for want of a substantial federal question." The date of this decision was January 22, 1962.

No final determination by the United States Supreme Court of the constitutionality of the 1955 oath or its supporting statutes has ever been rendered.

18. On May 28, 1962, upon advice from the defendant O'Connell, the defendant Odegaard, acting at the direction of the defendant regents, has demanded that all employees of the University of Washington sign an oath form which would fulfill the requirements of the Washington Subversive Activities Act. This oath can be found

on both Oath Form A and Oath Form B. It is designed to satisfy the 1955 statute, and not the 1931 statute, and is different from that presented to Professors Nostrand and Savelle which led to the litigation described above. The demand of President Odegaard was set forth in a notice distributed to all employees of the University, dated May 28, 1962, a copy of which has been attached as Exhibit B to plaintiffs complaint and reproduced in paragraph twenty below, and is incorporated throughout this order.

That notice demanded that all teaching faculty of the University of Washington execute a different oath form designed to fulfill the requirements of both the 1931 and 1955 statute; the oath form is denominated "A".

Copies of Oath Forms "A" and "B" are attached to this order and are incorporated throughout.

19. Execution of the required oaths on Forms A and B described in the paragraph immediately above is made by statute and action of the defendant regents, a condition precedent to any and all employment at the University of Washington. No employee at the University nor any plaintiff in this cause is afforded a hearing by any statute described in Paragraph 17 above, standing alone.

[fol. 197] *20.* On the 28th day of May, 1962, there was distributed from the office of the President, Charles E. Odegaard, a memorandum to all members of the staff of the University of Washington reading as follows:

> To All Members of the University Staff:
>
> At its meeting on May 25, 1962, the President reported to the Board of Regents that the University had been advised by the Office of the Attorney General of the state of Washington that pursuant to the decision of the Supreme Court of the United States there has now been dissolved the restraining order which had the effect of suspending the requirements as provided by state law that all employees sign the loyalty oath and that the teaching faculty sign, in addition, the oath to support the constitution.
>
> Like every other board, commission, council, department, court or other agency of the state of Washing-

ton, the Board of Regents is required by state law to use procedures designed to ascertain whether a person employed by it is a subversive person and to require every employee or applicant for employment to state under oath whether or not he or she is a member of the Communist party or other subversive organization. The Office of the Attorney General has provided an approved form of statement and oath.

In the case of teaching faculty the oath contains two sections, the first being the oath to support the constitution and the second being the loyalty oath. The text is as follows:

"I, the undersigned, do solemnly swear (or affirm) that I will support the constitution and laws of the United States of America and of the state of Washington, and will by precept and example promote respect for the flag and the institutions of the United States of America and the state of Washington, reverence for law and order, and undivided allegiance to the government of the United States;

"I further certify that I have read the provision of RCW 9.81.010 (2), (3), and (5); RCW 9.81.060; RCW 9.81.070; and RCW 9.81.083 which are printed on the reverse hereof; that I understand and am familiar with the contents thereof; and I swear (or affirm) that I am not a subversive person as therein defined; and

"I do solemnly swear (or affirm) that I am not a member of the Communist party or knowingly of any other subversive organization.

"I understand that this statement and oath are made subject to the penalties of perjury."

In the case of staff other than teaching faculty, only the second or loyalty oath is required.

The oath to support the constitution has been in effect since 1931 and has not been an object of litigation. The "Loyalty" oath was first added in legislation dated from 1955 and has been the object of litigation leading to the deletion of a portion of the law

which was declared unconstitutional. Mr. Harlocker, Assistant Attorney General, reports that the statute as upheld now by the courts, in essence requires a person to state that he is not a subversive person or knowingly a member of a subversive organization, that is, a person or organization which commits, advocates, abets, advises, or teaches by any means any act intended to overthrow, destroy, or alter the constitutional form of the government of the United States or the state of Washington by revolution, force, or violence, the Communist party being declared to be a subversive organization and membership in it being declared to be subversive.

Attention, however, is directed to the full wording of the appropriate provisions of the law which will appear on the reverse of the statement and oath and which are the following:

[fol. 198] Subversive Person Ineligible for Public Employment.

"No subversive person, as defined in this act, shall be eligible for employment in, or appointment to any office, or any position of trust or profit in the government, or in the administration of the business, of this state, or of any county, municipality, or other political subdivision of this state." (RCW 9.81.060).

Definition of Subversive Person, Subversive Organization, and Foreign Subversive Organization.

"'Subversive person' means any person who commits, attempts to commit, or aids in the commission, or advocates, abets, advises, or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or any political subdivision of either of them by revolution, force, or violence; or who with knowledge that the organization is an organization as de-

scribed in subsections (2) and (3) hereof, becomes or remains a member of a subversive organization or a foreign subversive organization. (RCW 9.81.010 (5)).

"'Subversive organization' means any organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, by revolution, force or violence. (RCW 9.81.010(2)).

"'Foreign subversive organization' means any organization directed, dominated or controlled directly or indirectly by a foreign government which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or to advocate, abet, advise, or teach, activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them and to establish in place thereof any form of government the direction and control of which is to be vested in, or exercised by or under, the domination or control of any foreign government, organization, or individual." (RCW 9.81.010 (3)).

Communist Party Declared to be Subversive Organization.

"The Communist party is a subversive organization within the purview of chapter 9.81 and membership in the Communist party is a subversive activity thereunder." (RCW 9.81.083).

Oath Required of Employees of State of Washington.

". . . Every such person, board, commission, council, department, court, or other agency shall require

every employee or applicant for employment to state under oath whether or not he or she is a member of the Communist party or other subversive organization, and refusal to answer on any grounds shall be cause for immediate termination of such employee's employment or for refusal to accept his or her application for employment." (RCW 9.81.070).

The law provides that "refusal to answer on any grounds shall be cause for immediate termination" of employment. To enable the Board of Regents to acquit itself of the responsibility placed upon it by law, a check of the personnel records of the University is in process so that those persons who have not previously sworn to the required oaths may be requested to do so. These requests will be submitted as soon [fol. 199] as possible but surely no later than September 15, 1962. Since the end of the academic year will be reached in a few days and a substantial number of persons will go off the University payroll for the summer and may not even be in Seattle, compliance will be requested by October 1, 1962, with notification that in the event of failure to comply, employment will be terminated 30 days later as of October 31, 1962, unless a delay in taking action to terminate seems reasonable because of causes other than intentional refusal to sign.

In approving this schedule for actions required in order to comply with the law, the Board of Regents adopted the following statement:

"If any member of the faculty having tenure should fail to comply with the requirements, be given notice of termination of employment, and appeal to the tenure committee, it should be indicated that the grounds for termination are failure to comply with provisions of Washington state law which is binding upon the Board of Regents.

"Attention should be directed to Section 2511 of the Faculty Code and to the italicized portion thereof:

"'The University of Washington Regents accept in principle the concept that tenure for members of the

faculty is essential for effective teaching and sustained productivity in scholarship.

"'They furthermore accept in principle the concept that the privilege of a faculty member to hold his position without discriminatory reduction in salary, and not to be removed therefrom, should not be abrogated except for cause and through orderly administrative processes, *maintaining and retaining, however, the responsibilities and obligations of the Board of Regents as defined in the laws of the state of Washington.*'

"In accepting in principle the concept of tenure and acting within the area of discretion available to it, the Board of Regents seeks to follow the customs on tenure described in Chapter 25 of the Faculty Code. The Board, however, cannot set aside the responsibilities and obligations imposed upon it by the laws of the state of Washington, and, therefore, cannot waive requirements as to employment specifically set by law with reference to the execution of the statement and oath."

21. At all times material to this cause, plaintiffs, and others similarly situated, have refused to execute the oath forms demanded of them and continue to do so.

22. Plaintiffs, and others similarly situated, have no speedy or adequate remedy at law.

23. Unless defendants are restrained from enforcing the provisions of the Statutes which are challenged by this cause, and from insisting on the execution of the required oath, plaintiffs, and others similarly situated, will suffer irreparable injury not compensable in monetary damages.

24. Each of the plaintiffs is a member of a class so numerous as to make it impracticable to bring them all before [fol. 200] the court. The character of the rights sought to be enforced for the various classes is several, but there are common questions of law and fact affecting the several rights here concerned and common relief is sought. This cause is a proper class action.

25. This action is brought for declaratory relief pursuant to Section 2201 of Title 28 of the United States Code and to obtain an interlocutory and permanent injunction of the statutes of the State of Washington reproduced and described in paragraphs 10 and 12 above, pursuant to the provisions of Chapter 155 of Title 28 of the United States Code.

26. All plaintiffs are willing and able to testify that, in their opinion and in accordance with the facts of their knowledge, they have not and do not use their positions of employment at the University of Washington in any such ways as knowingly to bring about the violent overthrow, by force, of the governments of either the United States of America or the State of Washington.

27. The Faculty Handbook, Parts I, II, and IV, Chapter 24 at pages 47 through 54, and the memorandum to the Deans of the University of Washington from President Charles E. Odegaard dated February 6, 1959, copies of which are attached to this order and incorporated throughout, at all times relevant to this cause, govern the procedures relating to appointment and promotion of faculty members at the University of Washington.

28. Professor Georg Wust, a subject of Germany, and one of the world's leading authorities on dynamical oceanography, was a Walker-Ames visiting professor to the University of Washington during the Spring of 1962. During the summer of 1962, one of the foremost learned figures in the field of the physiology of marine phytoplankton, Professor Steemann Nielsen, a Danish subject, taught a course at Friday Harbor, the University of Washington's marine station.

29. Meteorology is a thoroughly international science, a part of which studies Atmospheric Turbulence. Soviet scientists have made significant contributions to the understanding of atmospheric turbulence. The similarity theory developed by the Soviet scientist, Kolmogoroff, in 1940 [fol. 201] remains the basic theory guiding much of the scientific work currently being done in atmospheric turbulence.

30. Plaintiffs Birnbaum, English, Goldsworthy, Geballe, Holt, Jacobsohn, Nostrand, Read, Rader, Savelle and Philip E. Wilcox earn a salary from the State of Washington, as a consequence of their employment by the University of Washington, in excess of $10,000 per year. Many other plaintiffs, and others similarly situated, earn in excess of $10,000 per year as a consequence of their employment by the University of Washington.

[fol. 202] *Facts Not to Be Contested*

Plaintiffs and defendants agree that each and every following statement, appearing in this section, Facts Not To Be Contested, shall be admitted into evidence without objection thereto, and it expressly has been agreed by plaintiffs and defendants that they hereby, and do, waive any and all objections to the admission of this section into evidence with the sole exception that counsel for defendants expressly reserves the right to object to the admission of portions of paragraph 45, printed below, on the grounds that they constitute inadmissible hearsay, all further objections being waived. It being further agreed by plaintiffs and defendants that neither of them concede the probative value of any of the statements produced below, nor the weight that the Court properly should ascribe to them in resolving any of the issues in this cause.

Plaintiffs do not intend to contest the following facts, introduced by defendants, at trial by evidence to the contrary:

[fol. 203] *31.* If Charles D. Odegaard, defendant, were called upon to testify he would do so as follows:

1. That the memorandum of May 28, 1962, distributed to all members of the University staff, was an actual demand made upon all employees of University of Washington that they execute either Oath forms A or B, whichever might be applicable to them.

2. That, as President of the University, he made this demand upon all employees pursuant to statute and upon advice from the Attorney General of the State of Washington and at the direction of the Board of Regents of the University of Washington.

3. That he is of the opinion that this course of action was, and is, necessary and required by the statutes in question in this case.

4. That the October 1, 1962, deadline date was made solely to accommodate the necessary administrative procedures required to carry out the mandate of the statutes and that he fully expected and insisted, until restrained by judicial action in this case, that all employees sign the proper oath form prior to that date. The removal of the previous injunction in *Nostrand* v. *Little, supra,* presented the University of Washington with a difficult administrative problem as it tried to set up clear-cut procedures to meet the statutory requirement that all teachers sign oath form A and all other employees sign oath form B. To indicate, partially, the size of the task involved in administering these procedures, it must be pointed out that over 13,000 persons are employed full or part-time by the University. Included in this total are many students employed on a part-time basis; nearly 3,300 persons are paid primarily from grant and contract funds; there are over 430 clinical staff appointees, eighty per cent of whom contribute, in some degree, to teaching and research activities; a number of faculty and staff on the payroll who are currently serving outside in the state or, in some instances, beyond the national boundaries but who are subject to the statutes, and there are many other persons who because of the nature of their duties are not easily classifiable as to the form of oath they must sign.

[fol. 204] This latter question, for instance, arises in the case of the Applied Physics Laboratory, which is administered by the University but supported in its entire operation by the U. S. Navy Bureau of Weapons and employs nearly one hundred security-cleared persons. The same question of proper classification applies to the over three hundred research assistants and the ninety odd research professional appointees and other supporting personnel who are paid from grant and contract funds. The most significantly complicating element in this classification of personnel, however, is not only its numbers but the fact that many persons in it have, from time to time, responsibilities for

instruction. Whatever the final disposition of matters to satisfy the legal requirements, it is clear that the procedures to be followed in the administration of the oaths are not only complex and time consuming but involved with knotty questions of definition and classification, all of which increase the burdens of administering the oath. This is why the October 1, 1962, deadline date was set. In order to carry out these procedures, to avoid administrative overload, and to obtain the executed oaths by October 1, 1962, it was necessary that the subordinate department heads begin immediately after May 28, 1962, to begin administering the oath forms to the employees under their jurisdiction.

A special complicating element has been added with the institution on June 6, 1962, of judicial proceedings which question the validity of the statutes requiring the oath. Since June 7, and until the temporary restraining order was issued, the University has been deluged with queries as to whether the oath need now be signed. It is being asked, for example, whether prospective employees who are due to report next fall are obliged to sign and if so what will be their obligation at that time. And there are other basic questions. Some of these center on the fact that the regular teaching faculty is made up of over 1,400 individuals of whom approximately eight hundred hold tenure. The question coming from them is whether they will be allowed to teach while their status is being determined. All of these questions come at a time when the University is facing a shortage of qualified staff.

[fol. 205] The University takes a responsible attitude toward these and similar questions from its personnel and has proceeded as expeditiously as possible to deal with them, and also has faced its responsibility to administer the oaths pursuant to statute.

5. That he is of the opinion that oath forms A or B (absent the statutory requirement) is not a necessary qualification of fitness to teach or to do research at the University of Washington.

6. That he is of the opinion that the existing recruitment and personnel procedures practiced by the University

of Washington during the past seven years, and as improved from time to time during that period, are adequate to protect the legitimate public interest in securing qualified and trustworthy personnel.

7. That he is of the belief that some prospective applicants for academic positions at the University of Washington who would otherwise be fully qualified would be reluctant to accept employment there on the condition of executing Oath form A or B; consequently, this would add a difficulty to the general problem of attracting qualified academic personnel.

8. That the anticipated immediate future of the University of Washington is one of growth and expansion. The total number of students is expected to increase, as is the continuing expansion of faculty and other personnel, plant and facilities. It is expected that the University will continue to become increasingly a center for graduate and advanced professional studies, although retaining a very substantial commitment to a strong undergraduate program.

9. That the 1940 statement of principles regarding Academic Freedom and Tenure which is reproduced here below and which has been adopted and promulgated by the Association of American Colleges and the American Association of University Professors and which has been endorsed by other organizations expresses principles as to institutional and individual rights and duties which he personally endorses.

[fol. 206] *Academic Freedom and Tenure*

1940 Statement of Principles

In 1940, following a series of joint conferences begun in 1934, representatives of the American Association of University Professors and of the Association of American Colleges agreed upon a restatement of principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure. This restatement, known to the profession as the 1940 *Statement of Principles on Academic Freedom and*

Tenure, was officially endorsed by the following organizations in the years indicated:

Association of American Colleges	1941
American Association of University Professors	1941
American Library Association (adapted for librarians)	1946
Association of American Law Schools	1946
American Political Science Association	1947
American Association of Colleges for Teacher Education[1]	1950
Association for Higher Education, National Education Association	1950
Eastern Psychological Association	1950
American Philosophical Association:	
Western Division	1952
Eastern Division	1953
Southern Society for Philosophy and Psychology	1953
American Psychological Association	1961
American Historical Association	1961
Modern Language Association of America	1961

The purpose of this statement is to promote public understanding and support of academic freedom and tenure and agreement upon procedures to assure them in colleges and universities. Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher[2] or the institution as a whole. The common good depends upon the free search for truth and its free exposition.

Academic freedom is essential to these purposes and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to

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[1] Endorsed by predecessor, American Association of Teachers Colleges, in 1941.

[2] The word "teacher" as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.

freedom in learning. It carries with it duties correlative with rights.

Tenure is a means to certain ends; specifically: (1) Freedom of teaching and research and of extramural activities, and (2) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society.

[fol. 207] *Academic Freedom*

(a) The teacher is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of his other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.

(b) The teacher is entitled to freedom in the classroom in discussing his subject, but he should be careful not to introduce into his teaching controversial matter which has no relation to his subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.

(c) The college or university teacher is a citizen, a member of a learned profession, and an officer of an educational institution. When he speaks or writes as a citizen, he should be free from institutional censorship or discipline, but his special position in the community imposes special obligations. As a man of learning and an educational officer, he should remember that the public may judge his profession and his institution by his utterances. Hence he should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that he is not an institutional spokesman.

Academic Tenure

(a) After the expiration of a probationary period, teachers or investigators should have permanent or continuous tenure, and their service should be terminated only for ade-

quate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies.

In the interpretation of this principle it is understood that the following represents acceptable academic practice:

(1) The precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.

(2) Beginning with appointment to the rank of full-time instructor or a higher rank, the probationary period should not exceed seven years, including within this period full-time service in all institutions of higher education; but subject to the proviso that when, after a term of probationary service of more than three years in one or more institutions, a teacher is called to another institution it may be agreed in writing that his new appointment is for a probationary period of not more than four years, even though thereby the person's total probationary period in the academic profession is extended beyond the normal maximum of seven years. Notice should be given at least one year prior to the expiration of the probationary period if the teacher is not to be continued in service after the expiration of that period.

(3) During the probationary period a teacher should have the academic freedom that all other members of the faculty have.

(4) Termination for cause of a continuous appointment, or the dismissal for cause of a teacher previous to the expiration of a term appointment, should, if possible, be considered by both a faculty committee and the governing board of the institution. In all cases where the facts are in dispute, the accused teacher should be informed before the hearing in writing of the charges against him and should have the opportunity to be heard in his own defense by all bodies that pass judgment upon his case. He should be [fol. 208] permitted to have with him an advisor of his own choosing who may act as counsel. There should be a full stenographic record of the hearing available to the parties

concerned. In the hearing of charges of incompetence the testimony should include that of teachers and other scholars, either from his own or from other institutions. Teachers on continuous appointment who are dismissed for reasons not involving moral turpitude should receive their salaries for at least a year from the date of notification of dismissal whether or not they are continued in their duties at the institution.

(5) Termination of a continuous appointmen because of financial exigency should be demonstrably bona fide.

Interpretations

At the conference of representatives of the American Association of University Professors and of the Association of American Colleges on November 7-8, 1940, the following interpretations of the 1940 Statement of Principles on Academic Freedom and Tenure were agreed upon:

1. That its operation should not be retroactive.
2. That all tenure claims of teachers appointed prior to the endorsement should be determined in accordance with the principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure.
3. If the administration of a college or university feels that a teacher has not observed the admonitions of Paragraph (c) of the section on *Academic Freedom* and believes that the extramural utterances of the teacher have been such as to raise grave doubts concerning his fitness for his position, it may proceed to file charges under Paragraph (a) (4) of the section on *Academic Tenure*. In pressing such charges the administration should remember that teachers are citizens and should be accorded the freedom of citizens. In such cases the administration must assume full responsibility and the American Association of University Professors and the Association of American Colleges are free to make an investigation.

10. That he and the presidents or Boards of at least 170 other universities and colleges publicly have stated their disapproval of the disclaimer affidavit required by the National Defense Educational Act which in his opinion is similar in some respects to the one in question here:

National Defense Education Act of 1958, Public Law 85-864, 72 Stat. 1602. Title II provides for low interest loans to students in institutions of higher education. Section 1001 (f), in pertinent part, reads as follows:

> "No part of any funds appropriated or otherwise made available for expenditure under authority of this Act shall be used to make payments or loans to any individual unless such individual (1) has executed and filed with the commissioner an affidavit that he does not believe in, and is not a member of and does not support any organization that believes in or teaches, the overthrow of the United States Government by force or violence or by an illegal or unconstitutional methods, and (2) . . . omitted . . . ".

[fol. 209] 32. If Glenn Leggett, Vice Provost of the University of Washington were called upon to testify he would do so as follows:

> "My name is Glenn Leggett, and I occupy the office of Vice-Provost of the University of Washington. This office concerns itself, among other things, with the supervision of the academic personnel records at the University of Washington.
>
> "On June 17, 1956, a physicist, who previously had been hired by the University of Washington, officially resigned that position, giving the following reason in a notice of resignation which referred to the 1955 oath requirement:
>
> > 'A position was offered me at the University of Birmingham. In light of the fact that my continued employment at Washington beyond this year will depend on factors other than my competence, and that the situation there was one that I felt reluctant

to enter into, I decided to accept the Birmingham offer. Had it not come, I believe my decision would still have been to resign.'

"Since the dissolution of the injunction in *Nostrand* v. *Little*, and the necessary resumption of requiring the execution of Oath forms A or B as a condition of employment at the University, several executive officers of various University departments have expressed their concern regarding the success with which they might attract scholars, citizens and non-citizens, to become members of the teaching and/or research faculty. In one case, there may be others, a professor at another University, who, during 1961 and 1962, was in negotiations with the University department of philosophy. He did not accept a position at the University of Washington, basing his reasons, in significant part, on the fact that the injunction had been dissolved and that he would be required to execute Oath form A.

"On June 4, 1962, Provost of the University, Frederick P. Thieme, sent a memorandum to Deans and Executive Officers of the various University departments. It instructed these university officials to begin administering Oath form A or B, whichever may be proper in each case, to the personnel employed by the University of Washington."

[fol. 210] *32a.* If Carl Pettibone were called upon to testify, he would do so as follows:

"That he is the Business Manager of Washington State University and, in the absence of the President of the University, he acts on behalf of Washington State University, which delegation of authority is with the approval of the Board of Regents of Washington State University. That C. Clement French, President of Washington State University, is out of the State of Washington on University business and will not return until August 17, 1962.

"That in his official capacity as aforesaid, he is personally acquainted with the terms and provisions of

Chapter 254, Laws of 1951 of the State of Washington and Chapter 377, Laws of 1955 of the State of Washington, which statutes contain the so-called 'loyalty oath' provisions applicable to public colleges and universities of the State of Washington, and is also familiar with the procedures used by Washington State University pursuant to such statutes.

"That Washington State University is fulfilling the requirements of the aforesaid statutes and that each and every member of the staff of Washington State University has signed the loyalty oath and other declarations as required by such statutes. No member of the staff of Washington State University has refused to sign such oath or other declaration. To his knowledge no person who has been offered employment at Washington State University has declined such employment by reason of the requirements of the aforesaid statutes.

"That to the personal knowledge of Mr. Pettibone and after making inquiry among other officials of Washington State University, he firmly believes and therefore alleges, that the existence of the foregoing statutes in the State of Washington have not had any detrimental effect on Washington State University.

"That Washington State University is a public institution of higher education of the State of Washington located at Pullman, Washington, having a current student enrollment of approximately 8,000 full-time students and a present full-time equivalent faculty and staff of approximately 2,600. That Washington State University is a University composed of several colleges with graduate curriculum, as well as undergraduate, in all colleges. That by statutes of the State of Washington many major lines of study have been divided between the University of Washington and Washington State University as exclusive major lines.

"That recruitment for new faculty at Washington State University is from major universities of the United States and without geographic limitation."

[fol. 211] Defendants do not intend to contest the following facts at trial by evidence to the contrary, and they may be admitted into evidence without objection, but defendants are unable to concede their probative value to resolve the issues in this case, and expressly reserve the right to contend to the contrary:

33. Defendants are without knowledge that any University of Washington students, graduates or ex-students have been charged in any judicial proceedings with a violation of any of the criminal provisions of the Subversive Activities Act of the State of Washington as set forth in RCW 9.80, and reproduced, in part, in paragraph 12 above.

34. Defendants are without knowledge that any guest, visitor or listener to public lectures delivered at the University of Washington has been charged in any judicial proceeding under any provision of the Subversive Activities Act of the State of Washington as set forth in RCW 9.80, and reproduced, in part, in paragraph 12 above.

35. To the knowledge of defendants no official agency of government, local, state or federal, has brought facts to the attention of the official administrative officers of the University of Washington to the effect that, as a result of the teachings and activities of plaintiffs and others similarly situated, any student or ex-student of the University of Washington is in violation of the Subversive Activities Act of the State of Washington as set forth in RCW 9.80 and as reproduced, in part, in paragraph 12 above.

36. Defendants are without knowledge that any member of the teaching faculty has been charged in any judicial proceeding with a violation of any of the criminal provisions of the Subversive Activities Act of the State of Washington as set forth in RCW 9.80, and reproduced, in part, in paragraph 12 above.

37. Defendants are without knowledge that the plaintiffs, or others similarly situated, in any way, use their positions of employment with the University of Washington to engage in or promote activities designed to achieve

the violent overthrow, by force, of the governments of [fol. 212] either the State of Washington or of the United States of America, or any subdivision of either.

38. All plaintiffs are of the opinion that they cannot execute either Oath form A or B and that they refuse to swear or affirm that they "understand and are familiar with the contents" of RCW 9.81.010(2), (3) and (5); RCW 9.81.060; RCW 9.81.070 and RCW 9.81.083, and RCW 28.70.150, "subject to the penalties of perjury."

39. Plaintiffs Halpern, Dash, Eaves, English, Jacobsohn and Geballe, and others similarly situated, have security clearances necessary for the type of work that they perform on a contract research basis for governmental and private agencies and which grants them access to classified information. These clearances have been granted by at least one of the following: the United States Atomic Energy Commission, the United States Air Force, the United States Navy or The Boeing Company.

40. All plaintiffs are of the opinion that the requirement that they sign the oaths in question is an affront to their personal and professional integrity, an abridgement of their civil liberties and constitutional rights secured and guaranteed under the First, Fifth and Fourteenth Amendments to the Constitution of the United States.

41. All plaintiffs are of the opinion that if they executed the oaths in question said execution would cause each of them emotional anguish due to having to compromise their principles, beliefs and consciences.

42. All plaintiffs fear that if they executed either Oath forms A or B that they may subject themselves to harassment and the threat of prosecution for perjury.

43. Plaintiff, Boris A. Jacobsohn, has co-authored two articles on nuclear physics with a Soviet scientist, R. M. Ryndin of the Joint Institute For Nuclear Research, Dubna, Union of Soviet Socialist Republics. One has been published in Vol. 6, No. 1, *Physical Review Letters*, January 1, 1961. The other can be found in Vol. 24, *Nuclear Physics*, pp. 505-509 (1961). Professor Jacobsohn is of the opinion

that he cannot, in good conscience, execute Oath Form A and continue to engage in the type of activities described [fol. 213] immediately above, and that his continued participation in this type of activity is essential to the proper discharge of his duties as a professor of theoretical physics at the University of Washington.

44. Plaintiffs Matchett and Orians are members of the religious order known as the Society of Friends (Quakers) and state that they refuse to swear or affirm that they "will by *precept* and *example* promote respect for the flag and the *institutions* of the United States of America and the State of Washington, reverence for law and order, and *undivided allegiance to the government of the United States.*" They are of the conviction that, by peaceful means, they must, by precept and example, affirm their undivided allegiance to their God, and further, they are of the religious conviction that something is subtracted from the dignity of a man who is forced by legal compulsion, which is the way they interpret Oath form A, no less than through the infliction of physical pain, to contribute to his own undoing.

[fol. 214] 45. Plaintiff, Boris A. Jacobsohn, is Director of the Summer Institute for Theoretical Physics and a senior faculty member in the department of physics. The last meeting was held during the summer of 1962 in Seattle, Washington. If Professor Jacobsohn were asked to testify regarding his conversations and associations engaged in during the Summer Institute, he would state:

> "I am at present Director of the Summer Institute for Theoretical Physics. This is a group of theoreticians from the U. S. and abroad who are spending part or all of the summer here doing research in theoretical physics. The Institute is supported by a grant from the National Science Foundation to the University, and I believe that all participants are technically University employees. It has been a great honor to the University to serve as host over an extended period to a group as outstanding as this one, and it is expected that we will be able to repeat this Institute every sec-

ond summer. The students and the faculty have benefited from a series of seminars and personal contacts, the quality of which could only be duplicated at a few places in the world. While I have not had time to poll many of the participants at present in residence, I have spoken to several of them. Professor Gerald E. Brown (an American citizen), Professor of Theoretical Physics at the Nordic Institute of Physics, Copenhagen, Denmark, has told me flatly that he would not come for a short or long period to a university which made as a condition for his employment the signing of our oath. Professor R. E. Peierls, Professor of Theoretical Physics at the University of Birmingham, England, and, commencing in 1963, Professor of Theoretical Physics at Oxford University, has told me that it would be out of the question for him to sign an oath which contains the first paragraph of our present oath. While he recognizes the possible necessity of similar oaths on visas for internal security reasons, he would be extremely reluctant to sign an oath such as the 2nd and 3rd paragraph of ours as a condition for visiting a university. He emphasized that he makes frequent trips behind the Iron Curtain, that he has many contacts with Soviet, Polish, and other Eastern scientists; furthermore he will be a participant in the forthcoming "Pugwash" Conference (to be held in England) in which Soviet and other scientists will exchange views on disarmament and nuclear weapons control. Dr. Richard Eden of Clare College, Cambridge University, has told me that he could not sign the first part of the oath, and Dr. Peter Landshoff of St. John's College, Cambridge University, has stated flatly that he would sign no part of it.

"It is clear to me that if the taking of such an oath were a necessary condition for employment at the University, we could no longer expect to be able to have gatherings of distinguished people such as this. The University as a whole would be injured, and the students and faculty would suffer from a narrowing of horizons. In particular I myself would lose one of the

privileges which I regard as concomitant to being part of a first-rate university: the opportunity for stimulation and growth which comes from constant contact with scientists from all over the world."

[fol. 215] *46.* The following plaintiffs have engaged in the activities and associations listed below and believe them to have been part of their professional obligations:

(1) *Philip E. Wilcox*:

a. In January of 1959, Professor Wilcox accepted Dr. Josef Lisowski of the Ludwik Hirsfelds Institute of Immunology and Experimental Therapy, Wroclaw, Poland, to work in his laboratory at the University of Washington and later recommended that Dr. Lisowski be appointed as a research associate in the University. Dr. Lisowski was in the United States obtaining information for the purpose of training Polish scientists in Polish universities under a program approved by the United States Department of State and the Polish Communist government. He has returned to Poland.

b. In September of 1959, Professor Wilcox met and discussed scientific matters and the ways in which the training of Polish scientists could be facilitated with Professor Stephen Slopek, Director of Hirsfeld Institute, Poland. Professor Slopek is a member of the Polish Academy of Sciences and the Communist Party.

c. In August, 1961, Professor Wilcox became a member and attended the Fifth International Congress of Biochemistry in Moscow, U.S.S.R. where he presented a scientific paper. At that time he visited the laboratory of Professor Vainshtein, Institute of Crystallography, Academy of Sciences, and advised Professor Vainshtein about the development of techniques useful to his field of research.

(2) *William A. Dawson*

a. Professor Dawson is a dues-paying member and actively supports the work of the International Phycological Society which has on its executive council one A. D. Zinova of the Botanical Institute of the Academy of Sciences of the Union of Soviet So- [fol. 216] cialist Republics.

(3) *Robert G. Fleagle*

a. Professor Fleagle has participated in meetings and exchanged information with Russian scientists at the following international meetings:

1. International Union of Geodesy and Geophysics, Toronto, Canada, 1957.
2. International Association of Meteorology and Atmospheric Physics, Oxford, England, 1958.
3. International Union of Geodesy and Geophysics, Helsinki, Finland, 1960.
4. International Association of Meteorology and Atmospheric Physics, Marseilles, France, 1961.

b. Professor Fleagle has served on national and international planning groups for the International Indian Ocean Expedition.

c. Professor Fleagle is Chairman of the Committee on Atmospheric Sciences of the National Academy of Sciences and which has been charged with the duty of planning a Symposia for 1963 to be held in California. It is inevitable that Professor Fleagle will come into close association with Soviet scientists, learning from them and giving them information.

(4) *T. Saunders English*

a. Professor English engages in oceanographic research in the area of the Arctic Ocean where there is a historical and continuing overlapping of United States and U.S.S.R. interests. In 1959, he attended the International Oceanographic Congress at the

United Nations and while there engaged in associations and exchanged information with Soviet scientists.

(5) *Patricia J. Keller*

a. In 1961, Professor Keller attended the International Congress of Biochemistry which was held in Moscow, U.S.S.R. At that time she exchanged information with Soviet scientists, some of whom were mem- [fol. 217] bers of the Communist party, and engaged in other professional associations.

The above named plaintiffs, Philip E. Wilcox, William A. Dawson, Robert E. Fleagle, T. Saunders English, Patricia J. Keller, are of the opinion that they cannot, in good conscience, execute Oath form A and continue to engage in the activities and associations described above, but that such activities and associations are essential to the proper discharge of their professorial duties.

[fol. 218] 47. If plaintiff, W. Stull Holt, were asked to state his opinion regarding his reasons for refusing to execute Oath form A, he would testify as follows:

"I refuse to sign Oath form A.

"I am a professor of American history. I give each year a survey course on the history of the United States for undergraduates, the class usually having 120 to 180 students. I also give each year a two quarter course on the history of American foreign relations, 1776 to 1960. The students who are mostly seniors and juniors numbered this past quarter, fifty-six.

"My formal education brought me an A.B. degree from Cornell, 1920, and a Ph.D. degree, from Johns Hopkins, 1926.

"My academic positions have been: Staff, Brookins Institution, 1921-1924, 1926-1927; Assistant Professor, George Washington University, 1927-1930; Assistant and Associate Professor, Johns Hopkins University, 1930-1940; Professor, University of Washington, 1940—; Chairman of the History Department, 15 years.

"I have taught as a full professor in summer sessions at: Harvard, Columbia, Stanford, University of Southern California, University of British Columbia, Salzburg Seminar in American Studies, and have given individual lectures at other universities and colleges.

"I served as an officer in both World War I and World War II and took the usual oath to support and defend the Constitution and the United States Government. In 1917-1919, I flew as a 1st Lieutenant, and was decorated with the American Silver Star and the French Croix de Guerre. In World War II, I served as a Lt. Colonel for three years in Europe and was decorated with the American Bronze Star and the British O.B.E. (Officer of the Order of the British Empire).

"Some of the professional distinctions or positions indicating my standing in the academic world are:

a. Author of eight books, of chapters or sections in a number of other books, of various articles and notes.

b. Elected in 1957, by national vote, as one of two to the Council of the American Historical Association for four year term.

c. Elected in 1952 as President of the Pacific Coast Branch of the American Historical Association.

d. Elected in 1954 to Executive Committee of the Mississippi Valley Historical Association for three year term.

e. Elected in 1958 by national vote to Council of the American Association of University Professors (50,000 members) for three year term.

f. Appointed member of Board of Editors of Mississippi Valley Historical Association, 1961—.

g. Appointed in 1956 by Secretary of the Army to the Advisory Committee, Officer of the Chief of Military History, for five year term.

[fol. 219] "I think the two best books on the history of loyalty oaths in the United States have been written by Harold Hyman, *The Era of the Oath* (1954) and *To Try Men's Souls: Loyalty Tests in American History* (1959).

"As a full professor, I have tenure on the faculty, which is defined in the Faculty Code approved by the Board of Regents. A copy of the Code was given to me when I was appointed in 1940. It was then, and has been ever since, the practice of the University to give a copy of the Code to each newly appointed member of the faculty. The provisions relating to tenure are essentially the same as in 1940, except for the May 26, 1962 action by the Board of Regents.

"I received the 1962 oath from the Acting Chairman of the Department.

"I informed him by letter I refused to sign it as a matter of principle, because it is, I believe unconstitutional, because it is so vague in terms it infringes my rights and liberty under the Constitution of the United States and because it conflicts with my scholarly and personal life.

"The oath requires me to swear that I 'will by precept and example, promote respect for the flag and the institutions of the United States of America and the state of Washington.' Truth, which is, and must be, the first obligation of a professor of history, compels me to state and explain to my classes that the United States has acted improperly on a number of occasions, such as the use of force on the occasion of the revolution in Hawaii in 1893, or the intervention by threat of force in Columbia at Panama in 1903, or the threat to Denmark in 1916, that if the Danish West Indies were not sold to the United States, they might be taken by force without payment. My conclusions on these episodes are based on my evaluation of the evidence but are not unique since a large majority of American historians share them. What I fear if I sign the oath is that I would have to compromise my conscience and my professional obligation to search for truth and that some member of the class will report my statements

about the past improper actions of the United States and that I will be charged with perjury on the grounds that I am a 'subversive person' or that I am violating the oath to promote respect for the flag and an undivided allegiance to the United States. Various superpatriotic societies, like the John Birch Society, collect from students statements made by professors in their classes. I do not believe that I can execute Oath form A and continue to discuss these matters as I have in the past."

[fol. 220] 48. If plaintiff, C. A. Valentine, were asked to state his opinion regarding his reasons for refusing to execute Oath form A, he would testify as follows:

"I have been a Visiting Assistant Professor at the University of Washington since September, 1961. This is an annual type of appointment which has been renewed for the coming year with a raise which brings my salary up to $7,500 for the nine-month academic year. The courses which I have taught or will teach here include Introduction to Anthropology, Personality and Culture, Childhood and Society, Psychological Aspects of Culture, Cultures of the Pacific, Non-Western Political Systems, and Theories of Race.

"I received a B.A. degree with honors and major distinction in 1951, an M.A. in 1953, and a Ph.D. in 1958, all in anthropology and all from the University of Pennsylvania. I am a member of the Phi Beta Kappa general honor society and the Sigma Xi scientific research honor society. I am a fellow of the American Anthropological Association and a member of the American Association for the Advancement of Science and the American Association of University Professors. Beginning in 1954, I held a Fulbright Scholarship for two years at the Australian National University. During the academic year 1960-61 I was awarded a Mellon Post-Doctoral Research Fellowship at the University of Pittsburgh (Pennsylvania). In addition to the University of Washington I have taught at the University of Pennsylvania and Kansas. I have published one book and a number of articles in my field.

"My reasons for refusing to sign the oath are as follows. I believe that the requirement to sign the oath violates the principles of freedom of speech, freedom of conscience, and privacy of belief as protected by the First Amendment of the Constitution. I feel that the oath requirement threatens loss of liberty or livelihood without due process of law as guaranteed by the Fifth Amendment. I am convinced that the imposition of the oath would violate academic freedom, penalize independent thought, and deter discussion of controversial issues. It is clear to me that such an oath is inconsistent with reasonable qualifications for academic employment and serves no useful purpose not already accomplished by existing laws, regulations, and hiring procedures. As a scholar and teacher I feel that imposition of the oath is an affront to my integrity. I believe that the state has no right to impose such requirements, not only because they conflict with the ideal of a free society but also because they violate the First, Fifth, and Fourteenth Amendments.

"Apart from these general considerations, it is impossible for me to sign the oath in good conscience because its wording is so extremely vague as to what is prohibited. Although I am not a member of the Communist Party, neither the language of the oath nor the phraseology of the statutory definition makes it clear to me whether or not I can truthfully swear that I am not a member of a 'subversive organization' or a 'subversive person'. Under the definition stated in the relevant statute I do not know what a subversive organization is. On the basis of such vague and inclusive terminology in this definition as 'abets,' 'teaches,' 'alter,' and 'revolution,' the American Civil Liberties Union, to which I belong, might be classified as a subversive organization.

"I refuse to sign Oath form A. If I were to sign the oath, I would feel that I had been forced to declare [fol. 221] falsely that I hold a number of important beliefs to which in fact I do not subscribe. For example, although I support the general concept of 'the law'

as part of our social system, there are many specific laws which I do not support in any sense. These include the MacCarran Act and the Smith Act, restrictive immigration and passport laws, the Landrum-Griffin Act and other labor laws, and most legal provisions which outlaw gambling, prostitution, abortion, contraception, and the use of certain narcotics.

"Signing the oath would have an important effect on my personal and professional life. I would be forced to make the following choices repeatedly and in many different social contexts. Either I would have to violate the oath, thus risking the penalties of perjury as well as those of conscience, or I would have to make numerous changes in both my scholarship and teaching and also in my public and private expression of political and related views. I speak now about both the '1931' and '1955' oaths. For example, in my teaching of anthropology, particularly introductory and other undergraduate courses, I give an important place to exposition of the philosophical position of cultural relativism, according to which each social or cultural system is judged in terms of its own values rather than the alien criteria of our own society.

"Some of my courses include extensive critical analysis of racist beliefs and practices which underlie segregation, a social institution, of the United States, unlawful in certain instances. In teaching an introduction to genetics and human evolution I regularly emphasize the genetic and other physical effects of atomic radiation and fallout.

"Every course that I teach involves extensive description and exposition of non-American and non-Western beliefs and behavior patterns which are highly inconsistent with our own culture. Although I do not attempt to impose specific comparative value judgments, I do constantly encourage students to compare non-American culture patterns with their own and to develop a degree of empathy with alien beliefs and customs.

"Specific social and cultural features which I refer to repeatedly in this context include the left-wing Kibbutzim of Israel, which have practically abolished the family as it is usually defined, the Chinese communes which have apparently involved an attempt to accomplish something similar to this, a wide variety of non-monogamous marriage and family patterns, various non-Capitalist economic systems, a broad spectrum of non-republican political structures, a host of exotic religious beliefs and practices, and many specific items such as the absence of warfare among certain Eskimo groups. An example of a specific comparison which I make is between the thousands of victims of human sacrifice among the 'bloodthirsty' ancient Aztecs and the tens of thousands killed with one bomb by 'peace-loving' Americans in 1945.

"In courses which touch on colonial history or culture change in underdeveloped areas, numerous instances come up in which it becomes clear that the U. S. government has acted unwisely, aggressively, or destructively in its relations with non-Western peoples. Most examples of this sort refer to the destruction of the American Indian, but there are also more recent instances such as the forced removal and exposure to fall-out of Pacific islanders in the U. S. Trust Territory.

"Similar difficulties would arise with respect to a much wider variety of issues on which I often express [fol. 222] myself in informal contact with students, in private conversations generally, and occasionally in public gatherings. As in all the examples just given as well, I would be deterred and inhibited by the oath from expressing the kinds of views I cited earlier because I might be labelled a 'subversive person' and be prosecuted or dismissed from my employment."

[fol. 223] 49. If plaintiff, Kenneth E. Read, were asked to state his opinion regarding his reasons for refusing to execute Oath form A, he would testify as follows:

"My name is Kenneth E. Read. I am an Associate Professor of Anthropology at the University of Wash-

ington and Chairman of the Department of Anthropology. I hold the degrees of Master of Arts (First Class Honours in Anthropology) of the University of Sydney, Australia, and Doctor of Philosophy of the University of London, Great Britain. Prior to my appointment at the University of Washington I held the position of Research Fellow, School of Pacific Studies, The Australian National University, Canberra, Australia and subsequently that of Senior Lecturer in Anthropology, the Australian School of Pacific Administration, Sydney, Australia. I have been a member of the Council of the Anthropological Society of New South Wales and of the Seattle Anthropological Society. I have been President of the Seattle Anthropological Society. I am a Fellow of the Royal Anthropological Society of Great Britain and Northern Ireland, of the American Anthropological Association, a member of the British Association of Social Anthropologists, of the Anthropological Society of New South Wales and of Sigma Xi. I have been the recipient of a Fellowship from the Bollingen Foundation, New York and I am the sponsor of several research grants financed by the United States Department of Public Health.

"I refuse to sign Oath form A.

"I am not a citizen of the United States and I feel strongly that the wording of the oath is incompatible with my Australian citizenship, which I am very reluctant to jeopardize. I arrived at the University of Washington in January 1957 to accept an appointment for one year as Visiting Associate Professor of Anthropology. I was at that time Senior Lecturer in Anthropology at the Australian School of Pacific Administration, which granted me one year's leave of absence to visit the University of Washington. When I accepted this visiting appointment I was not informed that an oath of any nature might be required of me. Towards the end of 1957 I was asked if I would extend my appointment at the University for a second year. I agreed, with the added provision that my employers

in Australia grant me an extension of my leave of absence. I received the necessary extension of my leave. In 1958 I was asked to accept permanent employment at the University of Washington at the tenure rank of Associate Professor in Anthropology. In order to accept this offer I had to resign my appointment in Australia and, as an alien, I had to be sure that I would be permitted permanent residence in the United States. I had entered the country on an Exchange Visitor's Visa, which permits only a limited period of residence and which carries the legal stipulation that on the expiration of the visa the person concerned must leave the United States for two years. Both the Department of Anthropology and the University of Washington made representations to the United States Department of Justice on my behalf, with a view to securing a waiver of the Public Law which would have compelled me to leave the country and to securing for me an Immigrant's Visa which would allow me permanent residence. After protracted negotiations the United States Department of Justice waived the Public Law in my favor and I was eligible to apply for an Immigrant's Visa with First Priority under the Australia quota. Since my ability to remain in the United States seemed assured I resigned my position as Senior Lecturer with the Australian School of Pacific Administration and accepted the position of Associate Professor [fol. 224] of Anthropology at the University of Washington. I was at no time informed that an oath of any nature might be required of me as a condition of my employment by the University. Had this been pointed out to me I would not have resigned my position in Australia and would not have accepted employment at the University of Washington. I believe that I cannot swear undivided allegiance to the United States while I am a citizen of another, friendly, country. I am of the same conviction regarding the oath required by the Subversive Activities Act of the State of Washington.

"As I have remarked, I was not advised of the possibility that an oath would be required of me when I accepted employment with the University of Washing-

ton. When hired I was not questioned about my political beliefs nor have I been subjected to any additional screening concerning my beliefs since then. In resigning from my position in Australia I believe that I have plainly indicated that I had intended to remain at the University of Washington. I have no doubt that the University of Washington presently offers the best facilities in the State of Washington for me to pursue my profession. I believe, too, that it presently offers better facilities than those available in Australia. Indeed, this judgment is responsible for my decision to resign from my position in Australia and to accept employment here. But, I find myself in a dilemma. My refusal to sign Oath form A opens the distinct possibility that I will lose my employment at the University. Yet, if I were to sign, I might jeopardise, or lose, my Australian citizenship, or perhaps, risk being declared a 'subversive person.' The question therefore arises as to what effect this would have upon my personal and professional life."

[fol. 225] *50.* If plaintiff, Rhoads Murphy, were asked to state his opinion regarding his reasons for refusing to execute Oath form A, he would testify as follows:

"I am Professor of Geography and Member of the Far Eastern and Russian Institute at the University of Washington. I am also Editor of the *Journal of Asian Studies*, published by the Association for Asian Studies, the leading American academic professional organization for scholars in the field of Asian studies, and serve in addition as a consulting editor for *Encyclopedia Britannica*. I hold the degrees of A.B., M.A., and Ph.D., all from Harvard University. I teach courses in the Historical Geography of China (including Communist China), The Civilization of India, and Introduction to Geography. In addition I offer seminars for advanced graduate students in the field of Asian studies. Whether I remain at the University of Washington will depend on the outcome of this suit.

"I will not sign the oath, now or at any other time. I regard it as unacceptable to me as a teacher and scholar because it destroys the freedom of inquiry on which both teaching and scholarship depend. This is so as a matter of principle, inherent in any such oath; in addition, the present oath is extremely vague and hence doubly objectionable. I feel that the state has no right to require the oath in that the oath unduly infringes my rights and freedoms guaranteed under the Constitution of the United States. Enforcement of this oath would do irreparable harm to the University of Washington; it would repel or drive away valuable faculty, and would seriously damage or destroy the freedom of inquiry on which this and every other great university depends for its very life. Enforcement of the oath would have the effect of crippling a sound development, and would so damage the university's prestige in academic circles in this country that it would no longer be regarded as a serious or acceptable center of teaching or learning. Finally, enforcement of the oath would work a fundamental harm to the university in that it would bar the employment of aliens; any great university is necessarily an international center for the exchange of knowledge. Knowledge knows no national frontiers and is not concerned with citizenship or national allegiance. To cut a university off from prolonged and continual contact with scholars and teachers from other countries is further to cripple its development.

"As Editor of the *Journal of Asian Studies*, the leading American learned journal devoted to research in the humanities and social sciences concerned with Asia, I am responsible for managing exchanges of publications with the U.S.S.R., and am in frequent correspondence with Communist academicians and learned societies on a variety of matters of common professional interest. I shall shortly represent the Association for Asian Studies (which publishes the *Journal*) at the International Congress of Orientalists to be held in Delhi. Many of the scholars attending will be Communists, and I shall be engaged in frequent meetings and discussions with them.

"If I signed the oath, I would not feel that I could discuss in or outside of class controversial issues of several sorts which are important to a complete, honest, and objective presentation of the subject matter of the courses which I teach and of the field in which I work. It is not possible, for example, to deal adequately with communism in China or with important aspects of the political and economic systems in India and southeast Asia without discussing controversial matters which I would not feel free to attempt if I signed the oath. The policy of the United States in those parts of the world [fol. 226] and the administration of United States aid are also issues which require free discussion in the courses which I offer and which I would feel constrained from discussing freely. United States nonrecognition of Communist China, the United States role in the Chinese civil war of 1947-49, the United States position on Formosa, United States military aid to Pakistan and Viet Nam, and United States policy toward India, including its policy on economic aid to India, may all legitimately be criticized and should be subjected to free discussion in any course dealing with the modern period in Asia. If the oath were imposed upon me, I would not feel that I could teach honestly and effectively. Similarly, in the course, Introduction to Geography, which I also offer from time to time, it is appropriate and necessary for me to discuss, among other things, United States policy toward the use of American resources, which may also legitimately be subjected to criticism, the role of superabundant natural resources rather than of a particular economic or political system in accounting for the development of a high standard of living in the United States, the virtues of the T.V.A. as a method of resource management, and the regrettable absence or weakness of planning in the growth of American cities. These and other controversial points are set forth in detail in Chapter 36 of my textbook, *An Introduction to Geography*, Rand McNally, 1961. If I signed the oath, I would not feel that I could discuss them, or encourage

students to discuss them, and hence would not feel that I could in honesty teach.

"Adequate machinery already exists at this university for the identification, investigation or hearing, and dismissal of persons who are genuinely subversive or who for similar reasons are unfit as teachers or scholars. The Faculty Code, (Chapter 25, Section 2551) provides for dismissal for cause of members of the faculty, with provision for a hearing, which may have been rendered ineffective due to the action of the Board of Regents on May 26, 1962. Section 1 of Part B of the Report of the Administrative Committee on Appointment Policy as published on page 19 of the Faculty Handbook, Vol. II, 1958, reads in part:

'Each (member of the faculty) must possess deep personal and intellectual integrity, a free mind, and be dedicated to objective search for truth and its honest and complete presentation. The University should avoid harboring within its faculty any who are dedicated to the destruction of our liberties and our free institutions, upon which universities depend for their effective functioning.

'The wisest of appointment policies will fail if the men chosen will not accept the posts offered them, or if, having accepted, they find conditions at the University which make it difficult or impossible for them to make their proper contributions. Once an able and responsible faculty has been appointed, the community and the University have further to provide facilities and atmosphere which will permit this faculty to function properly. Important in this connection is an atmosphere of freedom, in which scholars may give expression to their new contributions, even if some of the ideas prove to be strange or unpopular. For the United States and its universities have grown to greatness in a climate of free enterprise and initiative which has provided the flexibility and adaptability to changing conditions necessary for a flourishing economy and society. The basic freedoms of individual thought, religion speech

press, political participation, and economic opportunity, all these along with free universities form a mutually interrelated group of institutions upon which depend the continued welfare and preserva-
[fol. 227] tion of our free society.

'With these considerations in mind, the University of Washington must fulfill with sound judgment, determination, and conviction its responsibilities to the people of the state. It is responsible to all the people, not to any minority or pressure group, be it political, religious, or economic. The University should promote originality of thought, encourage free discussion, and provide for the advance and dissemination of learning without permitting itself to be used as a focus for violent and unconstitutional assaults on our free democratic institutions. The citizens of the state of Washington expect their University to assume its obligations fully, with wisdom, diligence, and courage, in the interests of the people and their future, without permitting itself to be diverted from this high purpose by intimidation, dictation, or veto of any group, however vocal or persistent.'

"There is clearly no question that the University is fully alive to the dangers which an irresponsible or disloyal person might present as a member of its faculty, and that it has established guide lines and specific machinery with which to deal appropriately with such cases. At the same time, the statement quoted above makes it clear, as does the rest of the Report from which it was taken, that the requirement of this oath would unduly and inappropriately limit the freedom of inquiry which the University has declared is of vital importance to its basic purposes.

"For these reasons, I refuse to sign Oath form A."

[fol. 228] 31. If plaintiff, Melvin Rader, were asked to state his opinion regarding his reasons for refusing to execute Oath form A, he would testify as follows:

"My two fields of teaching and research are aesthetics and social philosophy. Among my courses are the Philosophy of History (which includes the study of the Marxian theory of history), Social Ethics (which includes a comprehensive interpretation of Communist social ideals), Social Philosophy (which includes the study of Marx and Engels), and a seminar in Marxism (offered in the past and to be offered again in the Winter Quarter, 1963). In my course in the Philosophy of Art I have regularly included an account of the Marxian theory of art; and in occasionally teaching Introduction to Philosophy, I have included the study of Communist social philosophy. I sometimes teach special courses, such as Human Rights (Autumn, 1961) and Philosophic Issues in World Affairs (Autumn, 1960 and 1962), in which I deal with Communist ideology. In all of these courses, I use original Communist source material, such as Marx's *The German Ideology*, the *Communist Manifesto*, and Lenin's *State and Revolution*.

"In quite a number of articles and books I have written about Communist theory or related matters. The following may be worth mentioning:

A Modern Book of Esthetics. New York: Holt, 1935; 2nd edition, 1952; 3rd edition, 1960. The second edition has been translated into Russian and circulated in the Soviet Union.

No Compromise. New York: Macmillan; London, Gollancz, 1939. This was the October 1939 choice of the English Left Book Club.

"Soviet Ideals and Postwar Cooperation." In Robert Mosse (ed.), *Soviet Far East and Pacific Northwest*. Seattle: University of Washington Press, 1944.

"Toward a Definition of Cultural Crisis." *Kenyon Review*, Spring, 1945.

"The Moral Basis of Peace" (with Linden Mander) and "International Protection of Individual Freedom within the State." In *If Men Want Peace*. New York: Macmillan, 1946.

"Soviet Communism." In *Twentieth Century Political Thought.* New York: Philosophical Library, 1946.

Ethics and Society. New York: Holt, 1950. (Contains a chapter on Marxism). "The Profession of Perjury." *New Republic,* July, 1954.

The Enduring Questions. New York: Holt, 1956. (Contains a chapter on "Communism and Western Ideals").

"The Artist as Outsider." *Journal of Aesthetics and Art Criticism,* March, 1958. (This article has been reviewed, somewhat favorably, in a Soviet journal).

"Community in a Time of Stress." *University of Colorado Studies in Philosophy,* 1961.

"On Teaching About Communism in the Public Schools." *College of Education Record,* May 1962.

[fol. 229] "Aesthetic Alienation and Creativity in the Early Works of Marx." To be read at the annual meeting of the American Society for Aesthetics, Boston, October 1963.

Ethics and the Human Community. New York: Holt, Rinehart, and Winston, to be published in 1963. This will contain an interpretation of Marxian ethics and social ideals.

"I have held the following offices in the following organizations (incomplete list):

1. Vice-President (1944) and President (1953) of the Pacific Division of the American Philosophical Association.
2. Member of the Executive Committee of the University Senate for a number of terms (three separately spaced terms). I am presently a member of the Senate.
3. Member of the Honorary Overseas Board of the Australian County Library Association, 1940-1941 (a three member Board, of which H. G. Wells was a member).

4. Member of the Board of Trustees of the American Society for Aesthetics, 1957-1959.
5. Chairman of the University of Washington Committee on Post-War International Problem, affiliated with the national Universities Committee on Post-War International Problems, Ralph Barton Perry, Harvard, Chairman, 1941-1944; with the assistance of the Carnegie Endowment for International Peace.
6. President of the American Civil Liberties Union of Washington State, 1957, 1961-1962.

"I consider the University of Washington the best place to pursue my profession, and I doubt very much if I could secure comparable employment elsewhere. Its library is the finest in the Northwest for my purposes, and I should not want to leave it. But, I refuse to sign Oath form A.

"Since I am a professor of social philosophy, my political beliefs have a most direct and intimate relation to the subjects I teach. I could not abandon my fundamental convictions or muffle my true opinions without the sacrifice of my professional integrity. The freedom to follow reason and evidence wherever they may lead is fundamental to my whole career. I could not continue along these lines and also execute Oath form A.

"The threat of perjury following execution of Oath form A has serious implications for a teacher like myself, who does not belong to the Communist Party, nor share its convictions, but who has expressed heterodox opinions and has belonged to suspect organizations. Such a teacher is forever in danger that, maliciously or mistakenly, he will be charged with membership in the Communist Party or some other form of 'subversion.' He may find himself, then, subject to prosecution for perjury with all the difficulties inherent in attempting to refute an unjust allegation which, in the light of the evidence available, may be irrefutable. My own experience is a vivid demonstration of this

danger, and so long as I maintain my intellectual independence and integrity, which I fully expect to, it will continue to be a danger to me in the future.

"Some of the most pertinent facts are as follows: In [fol. 230] the summer of 1948 the Canwell committee investigating 'loyalty' at the University of Washington tried to establish that I had been a sponsor, member, or associate of some dozen or more organizations whose activities closely paralleled the Communist Party Line. Some of these organizations, such as the American League Against War and Fascism, the Medical Bureau to Aid Spanish Democracy, and the Independent Citizens Committee of the Arts, Sciences and Professions, I had joined some years previously; others I had never been affiliated with. A number of witnesses before the Committee charged me with aiding the Communists. One person accused me of having been a member of the Communist Party. This witness, George Hewitt, had himself been a member of the National Committee of the Communist Party. He swore that he had been my teacher at a highly secret Communist School near Kingston, New York, for a period of about six weeks in the summer of 1938 or 1939, later declaring that he was positive the date was 1938. I made a categorical denial under oath and offered evidence that I could not have been in New York at the time stated. The next day the Canwell Committee, finding the King County Prosecuting Attorney intent upon investigating the possibility of perjury, spirited their witness out of the state.

"In a unanimous report to the 31st Washington Legislature, January 1949, the members of the Committee charged me, rather than Hewitt, with perjury. Their report stated: 'In the case of Melvin Rader . . ., the Committee's investigating staff and an agency of the Federal Government have produced evidence showing conclusively that Professor Rader did not tell the truth when he testified before the Committee.' They also repeated the charge, 'shown by the fully authenticated and documented records' of the Committee,

that I had been closely associated with 'twelve organizations which have been officially cited as Communist Fronts and subversive.'

"Despite such charges by the Committee and its witnesses, Prosecuting Attorney Lloyd Shorett and his successor Charles Carroll investigated the facts. Hewitt was finally indicted for perjury and arrested in New York State. He resisted extradition, and Manning Johnson, another former member of the National Committee of the Communist Party, rushed to his defense. In an affidavit signed on September 20, 1948, Johnson declared that he personally remembered me as having been present at the Communist Party School near Kingston, New York, in the summer of 1938, and that he further met me at Communist Party headquarters in New York City on various occasions during the same summer. Another former Communist, George Peters, signed an affidavit to similar effect.

"Later, at a habeas corpus hearing in Judge Aaron J. Levy's court in New York City on May 12, 1949, after being shown a picture of me, Johnson testified that he had seen the person pictured 'a number of times, going in and out of the office' at the Communist Party's national headquarters in the summer of 1938; further he swore that he had visited the Communist school during the summer to deliver a lecture, and 'during the course of my lecturing . . . I had the occasion of seeing Professor Rader. He was one of the students in that class.' On cross-examination, he was twice asked if he was 'positive' about his identification. His answer was, 'I'm positive.' Again, George Peters took the stand and swore that he had seen me at the Communist School near Kingston in the summer of 1938. He declared that 'everybody there was a Communist.'

"Judge Levy thereupon sustained the writ and lifted Hewitt's arrest, stating in court: ' . . . I am convinced that this man (Hewitt) committed no crime whatever; that if perjury were committed, it was committed by Melvin Rader, and that he ought to be the subject of a grand jury quiz rather than this accused.'

[fol. 231] "Subsequent investigations by the Seattle *Times*, Professor Vern Countryman of the Yale Law School, and now Dean of the School of Law at the University of New Mexico, and Attorney General Smith Troy of the State of Washington, established beyond all doubt that I had been in Washington during the whole summer of 1938. Dean Countryman has written his account in his book entitled *Un-American Activities in the State of Washington*. After reviewing the unassailable evidence, President Raymond Allen of the University issued a statement exonerating me from Hewitt's charges. The fact remains that three sworn witnesses impugned by testimony; an official committee of the State Legislature charged me with false swearing; a New York judge asserted that I should be subject to a grand jury investigation; my reputation was clouded and my job was in jeopardy for well over a year. During that time I was repeatedly attacked in newspapers, Canwell demanded my prosecution for perjury, and on one occasion a radio broadcaster reported that I was a Communist (I collected $5,000 from a libel suit because of this charge). Also, I tried to arrange a loan at my bank just after the Canwell committee hearings; and for the first and only time in my life I was refused. I believe Oath form A is a substantial threat to my property rights and my good reputation for purposes of obtaining credit.

"That the attacks upon me are not merely events of the remote past is indicated by what has transpired in the past year. At the invitation of State Superintendent of Public Instruction Louis Bruno, I participated in a meeting of a Lay Citizens' Advisory Committee in Olympia, September 27, 1961. At this meeting the subject of discussion was the ticklish question: whether teaching about Americanism, Communism, or both was a proper responsibility of the public schools, and, if so, by what means and methods should the teaching be conducted. Pleading for academic freedom, I found myself personally attacked by Mr. Paul

Stoffel, editor of the Pullman Herald and President of an Association of Newspaper Editors, who 'reminded' the Committee of my past associations and affiliations. These charges were subsequently spelled out in detail by Mr. Stoffel in long editorials in his newspaper, October 5, and November 2, 1961. Citing the Canwell Committee investigation, Mr. Stoffel charged that I had been active in thirteen 'Communist-front' organizations, cited Hewitt's testimony against me, accused me of bringing to the Olympia meeting 'two persons who evidently shared (my) views that nothing derogatory of Communism should be taught in the schools,' declared that I had never, to his knowledge, taken a stand contrary to the Communist Party line, and clearly implied that I was a master of deceit. Also in the spring of 1962 a published letter by Douglas Dix, student, to the editor of the University of Washington *Daily* called attention to the evidence against me in the Canwell Committee's Report of its investigation of the University of Washington.

"Finally, my work as President of the American Civil Liberties Union of Washington and the work of the Union has been subjected to very heavy criticism. This type of attack is extremist, but it is not uncommon and may become much more virulent in the future. Another very profound depression, or the outbreak of war against the Communist nations, could quickly produce a national hysteria with its concomitant of extreme repressive measures. That, in the event of my having signed the oath, I would then be charged with perjury, does not appear at all unlikely."

[fol. 232] *52.* If plaintiff, Paul Dietrichson, were called upon to testify and asked to give his reasons for refusing to execute Oath form A, he would testify as follows:

"I am an Associate Professor with tenure appointment, received my Ph.D. in philosophy at Yale, have taught philosophy at Wheaton College in Norton, Massachusetts (1951-54), at Yale (1954-55), and have been teaching at the University of Washington since 1955.

"I am a Norwegian citizen and a permanent resident of the United States, where I have lived for 16 years.

"About three years ago, I applied for a Docentship (Associate Professorship) at the University of Oslo. Several months ago, I was informed that I had won in the competition and had been appointed to the Docentship. Since my wife (who is an American) and I are at present uncertain whether we would prefer to live permanently in Norway or in this country, I have applied for—and have been granted—a year's leave of absence from the University of Washington to teach and do research at the University of Oslo. During the coming academic year, when I will be working as a Docent at the University of Oslo, I shall be making the final decision as to whether my family and I will settle permanently in Norway or in the United States. The authorities at the University of Oslo are willing to let me try out the position there for a year before I make my final decision. (I shall be leaving the country on August 25, and Seattle on August 17.)

Courses and Research.

"My main fields of teaching and research are philosophy of religion, existentialist philosophy, metaphysics and metaphysical foundations of ethics. I have published articles and reviews on those subjects in various American and European journals and am at present writing a book on Kierkegaard's philosophy. The David Swenson-Kierkegaard Memorial Fund has awarded me a research grant for writing that book; it will be published by Prentice-Hall in the Spectrum Series. I have also collaborated with three of my colleagues on an introductory text, *Introduction To Philosophy*, which will be published by Wadsworth Publishing Company next month. I have read papers at meetings of a number of philosophical associations in this country.

"I do not see how a person who is *himself* unable to swear (or affirm) undivided allegiance to the Government of the United States of American can solemnly swear (or affirm) that he will by precept and example promote *in others* such undivided allegiance. As a Norwegian citizen it is of course impossible for me to swear (or affirm) undivided allegiance to the Government of the United States. I am therefore simply not in a position to 'swear (or affirm) that I will . . . by precept and example promote . . . undivided allegiance to the government of the United States'—any more than a United States citizen with permanent residence in Norway would be in a position to swear (or affirm) that he will by precept and example promote undivided allegiance to the government of Norway.

"If signing the loyalty oath is to be made a condition of continued employment for any teacher on the faculty of the University of Washington, all foreign teachers would have to be dismissed. I believe such a nationalistic restriction on the free search for knowledge in [fol. 233] our university community would be a serious detriment to the University of Washington. A University prevented from employing foreign teachers in any field would cut itself off from a good deal of valuable talent (and in some respects unique types of talent), and would tend to become provincial and ingrown as compared with other universities that do not labor under such a restriction.

"Because I got most of my philosophical training in this country, I am not a particularly good example of a teacher who makes a special contribution by virtue of having a foreign background. But the point I am making can be illustrated even by reference to a certain part of my own teaching. I teach a course on existentialist philosophy and have found that a large number of students are particularly interested in the ideas of the Danish philosopher Sören Kierkegaard, who is in my opinion by far the most original and influential exponent of existentialist philosophy. In a course of that type it is of considerable value that the teacher can

read Danish fluently—as few people not brought up in Scandinavia can. In our class discussion today, e.g., we ran into a problem of textual interpretation of an important passage in one of Kierkegaard's works. If I could not check the Danish original, we would have had no way of solving that particular textual problem. In addition to the fact that requirement of the loyalty oath in its present form would impede the proper development of the University of Washington by barring the employment of foreign teachers, the loyalty oath and the disclaimer oath would make it difficult to attract certain able *American* teachers and scholars to positions on the faculty of the University of Washington.

"In addition to my conviction that the loyalty oath in its present form would impede the sound development of the University of Washington by barring the employment of aliens, I find the loyalty oath objectionable on several other grounds.

"The loyalty oath fails to specify *among whom* one should 'by precept and example promote . . . undivided allegiance to the government of the United States'. It is not clear to me whether one would be committed to promote such allegiance (1) among citizen of the United States only, or (2) among citizen *and among alien permanent residents of the United States as well.* I do not see how anybody can reasonably be required to swear (or affirm) to promote, among alien permanent residents, undivided allegiance to the government of the United States. The statement of the oath is therefore in need of clarification on that point.

"I am an active supporter of the United Nations. So my allegiance, not only to the government of Norway, but also to the principals and ideals of the United Nations as an institution prevents me from swearing (or affirming) *undivided* allegiance to the government of the United States.

"I would further like to know whether one according to the loyalty oath is supposed to swear (or affirm) undivided allegiance to the government of the United States in the sense that one must not have an allegiance —or at least not a significant allegiance—to God as the Creator and Governor of the universe.

"I also fail to see what precisely one would be called upon to do, as a university teacher and scholar, in order to promote by precept and example respect for the flag and undivided allegiance to the government of the United States. Would one be committed to exhort his students and colleagues to have such respect and allegiance and would one also be committed to introduce [fol. 234] exhortations of that kind into his scholarly writings? Such efforts would be wasteful and would be irrelevant to one's work as a university teacher and scholar.

"I am perfectly willing to support the constitution and laws of the United States and of the State of Washington, especially because the constitution provides legal means for altering laws and institutions that might be outmoded or detrimental to the general welfare of society. The vast majority of American institutions are in my opinion good, but there are in various parts of the country certain institutions, e.g., institutions promoting racial discrimination, that are socially detrimental and for that reason not worthy of respect. If the loyalty oath means that one is supposed to swear (or affirm) that he will by precept and example promote respect for '*the*' institutions in the sense of *each and every* institution of the United States of America and the state of Washington, the oath would in my opinion by highly unreasonable. If the oath is *not* meant to demand such indiscriminate endorsement of each and every institution of the United States, the statement of the loyalty oath is in need of clarification on that point.

The Disclaimer Oath

"I have never been a member of the Communist Party and am convinced that the theory and practice of Communism are on certain fundamental points completely incompatible with the type of human freedom, civil rights and responsibilities and the democratic institutions to which I am committed. I do, however, find the disclaimer oath objectionable on certain points.

"I fail to see that a person who attempts to 'alter' the Government of the United States by 'revolution' or who knowingly belongs to an organization working for that purpose is necessarily a subversive person and should be disqualified as a teacher. A revolution need not be violent; it might be accomplished by perfectly legal means and might under certain types of circumstances be in the best interest of the country. It is my understanding that the right of revolution is provided by the Declaration of Independence. It might be that the language of the disclaimer oath to the effect that it is 'subversive' to attempt to 'alter' the Government of the United States by 'revolution' is not meant to be opposed to the Declaration of Independence and to those American state constitutions that specifically provide the right of revolution. But because the disclaimer oath is unclear on that important point, I do not see how I could 'certify' that I 'understand' the contents of provisions of RCW 9.81.010 (5) and RCW 9.81.010 (2). In short, unless I am ready to occasion my immediate dismissal from my position at the University of Washington, I must—subject to the penalties of perjury—sign a disclaimer oath which is so formulated that in respect to certain essential points I would by no means be clear as to what I would be committing myself to. It seems to me that such a requirement is unreasonable and incompatible with the fundamental principles of American constitutional democracy.

[fol. 235] *Disputed Facts*

53. The plaintiffs contend as follows:

1. The failure of plaintiffs who are members of the teaching or research faculty of the University of Washington, with or without tenure, to execute Oath forms A or B improperly subjects them to substantial injury in the following particulars:

(a) the risks of unfair prosecution,

(b) deprives them without a hearing of their economic and credit standing and their right to work,

(c) deprives them of their good reputations,

(d) forces them to compromise their good consciences,

(e) their failure to sign carries a built-in inference of disloyalty and/or guilt,

(f) their failure to sign carries a built-in inference of their unfitness as professors.

2. There is no reasonable justification for requiring plaintiffs and others similary situated to execute Oath form A or Oath form B and this requirement will result in substantial injury to plaintiffs and others similarly situated, and through them, to the academic community of the University of Washington as follows:

(a) The intimidation of scholars in that they will inhibit and discourage necessary scholarly associations and the reporting to others of research and experience.

(b) The stifling of inquiry and dissent in that they will inhibit and discourage novel or unconventional undertakings in the several arts and sciences and tend to promote a conformity of thought and opinion.

(c) Making more difficult the University of Washington recruitment of teaching and non-teaching personnel.

(d) The lowering of the prestige and academic standing of the University of Washington with an adverse effect on its general reputation;

and (e) The lowering of the prestige, professional standing, credit standing, and general reputation of persons employed at the University of Washington, and in a position similar to the plaintiffs, with an adverse effect upon them.

[fol. 236] 3. Existing recruitment and personnel procedures at the University of Washington (absent the necessity to execute Oath forms A and B) are adequate to protect the legitimate public interest in securing qualified and trustworthy personnel.

4. Oath form A and Oath form B serve no useful purpose and in fact inflict widespread damage to the University of Washington and to plaintiffs and to those similarly situated.

5. Prospective applicants for academic positions at the University of Washington are reluctant to accept employment there on the condition of executing Oath forms A or B. Thus the University of Washington has difficulty in attracting professors and employees, and so plaintiffs and others similarly situated are deprived of association with and are isolated from scholars and technicians in their respective fields to their detriment and the detriment of the academic community at the University of Washington.

6. The University of Washington and plaintiffs, and others similarly situated, in providing instruction and research into subjects of learning necessarily require as a condition to the satisfactory discharge of the professional duties of the teachers and research staff the widest possible latitude of freedom to inquire, to dispute, to dissent and to associate with others. This very freedom is traditionally granted to universities and to their teachers and students, and it is essential to the proper fulfillment of the function of a university, and to the proper function of plaintiffs and the University of Washington in American society.

7. Neither Oath forms A nor B, if required of citizens or non-citizens employed or seeking employment at the University of Washington, has any reasonable relationship to the qualifications for fitness to teach and will cause great and irreparable damage to the University and to plaintiffs and to others similarly situated because the University and such plaintiffs will thereby be deprived of essential and necessary contact and intercourse with citizens of other nations, outstanding scholars in their fields, who would accept employment at the University of Washington but for the requirement by the University of signing Oath forms A and B.

[fol. 237] 8. Unless defendants are restrained from seeking the execution of Oath forms A or B, plaintiffs and others similarly situated will suffer irreparable injury not compensable in money damages, or by any other means.

9. Plaintiffs who are employees of the University of Washington, or who do not have tenure will be subject to

immediate discharge from employment if they fail to execute Oath forms A or B.

10. Plaintiffs who are employees of the University of Washington having tenure will be subject to immediate discharge from their employment if they fail to execute Oath form A. The hearing afforded them will be a sham inasmuch as its outcome is known in advance because the only question in issue at such hearing is whether a tenured professor, in fact, failed to execute Oath form A.

54. The defendants contend as follows:

1. Deny the facts set forth as contention 1 of plaintiffs above.

2. Deny the facts set forth as contention 2 of plaintiffs above.

3. Deny the facts set forth as contention 3 of plaintiffs above.

4. Deny the facts set forth as contention 4 of plaintiffs above.

5. Deny the facts set forth as contention 5 of plaintiffs above.

6. Deny the facts set forth as contention 6 of plaintiffs above.

7. Deny the facts set forth as contention 7 of plaintiffs above.

8. Deny the facts set forth as contention 8 of plaintiffs above.

9. Deny the facts set forth as contention 9 of plaintiffs above.

10. Deny the facts set forth as contention 10 of plaintiffs above.

These ten issues of fact are stated in the ten contentions of fact as made by plaintiffs above, and the ten denials thereof as made by defendants, and they will not here again be set forth.

Defendants do not agree that all the issues of fact which follow are relevant.

[fol. 238]

Issues of Fact

55. The following are the issues of fact to be determined by the Court herein:

1. Does the failure of plaintiffs, and others similarly situated, who are members of the teaching and research faculty of the University of Washington, with or without tenure, to execute Oath forms A or B improperly inflict damage upon them and subject them to substantial injury in the following particulars:

(a) by subjecting them to the risks of unfair prosecution?

(b) by depriving them without a hearing of their economic and credit standing and their right to work?

(c) by depriving them of their good reputations?

(d) by forcing them to compromise their good conscience?

(e) by tainting them with a built-in inference of disloyalty and/or guilt?

(f) by tainting them with a built-in inference of their unfitness as professors?

2. Do the requirements that plaintiffs, and others similarly situated, who are members of the teaching and research faculty of the University of Washington, with or without tenure, execute Oath forms A or B, result in substantial injury and inflict widespread damage on plaintiffs, others similarly situated, and through them onto the academic community of the University of Washington in the following particulars:

(a) by the intimidation of scholars because the requirement that they execute either Oath form A or B improperly inhibits and discourages necessary scholarly associations and the carrying out and reporting to others of their research and other scholarly experiences?

(b) by stifling inquiry and dissent because the requirement that they execute either Oath form A or B improperly inhibits and discourages novel or unconventional undertakings in research and scholarship into the several arts and sciences and tends to promote an unhealthy conformity of thought?

[fol. 239] (c) by making more difficult the University of Washington recruitment of teaching and non-teaching personnel?

(d) by lowering the prestige and academic standing of the University of Washington because of (e) below, with an adverse effect on its general reputation?

(e) by lowering the prestige, professional standing, credit standing and general reputation of persons employed at the University of Washington, and in a position similar to plaintiffs, with an adverse effect upon them?

3. Do the existing recruitment and personnel procedures at the University of Washington (absent the necessity to execute Oath forms A or B) adequately protect the legitimate public interest in securing qualified and trustworthy personnel?

4. Do the requirements that as a condition of their employment prospective applicants for academic or research employment at the University of Washington execute either Oath form A or B discourage said applicants from applying and/or accepting employment at the University of Washington and serve thereby improperly to deprive plaintiffs, and others similarly situated, of valuable associations with, and become isolated from, essential and needed contact and intercourse in their various professional fields with scholars and technicians who are citizens or non-citizens to their irreparable damage and through them to the academic community of the University of Washington?

5. Do plaintiffs, others similarly situated, and through them the academic community of the University of Washington, when providing instruction and research into subjects of learning, necessarily require as a condition to the satisfactory discharge of their professional duties as

scholars and researchers, the widest possible latitude of freedom to inquire, to dispute, to dissent and to associate with others?

6. Does Oath forms A or B, as a condition of employment of either citizens or non-citizens, or those employed or seeking employment at the University of Washington, improperly burden and/or exhibit no proper relationship [fol. 240] to the qualifications for fitness to teach or carry out research in the several arts and sciences?

7. Will plaintiffs, others similarly situated, and through them the academic community of the University of Washington suffer irreparable damage not compensable in monetary term, or by any other means, unless defendants are restrained from seeking the execution of Oath forms A or B from them?

8. Does failure to execute Oath forms A or B by non-tenured employees of the University of Washington subject them to immediate discharge from their employment?

9. Does failure to execute Oath form A by tenured plaintiffs, and others similarly situated, subject them to immediate discharge from their employment because the hearing afforded them will be a sham inasmuch as its outcome is known in advance because the only question in issue is whether a tenured person failed to execute Oath form A?

10. Does either Oath form A or B interfere with plaintiff's free exercise of academic liberty, or political expression, or association?

[fol. 241]

Issues of Law

56. The following are the issues of law to be determined by the Court:

1. Do the provisions of Chapter 103, Laws of Washington, 1931, and Chapter 377, Laws of Washington, 1955, which require plaintiffs as a condition precedent to their continued employment, to execute the oaths required by either or both of the foregoing statutes constitute an abridgement of their rights, privileges, and immunities as

secured and guaranteed to them by Article I, Section 10 and the First, Fifth, and Fourteenth Amendments to the Constitution of the United States?

2. Do the provisions of Chapter 103, Laws of Washington, 1931, and Chapter 377, Laws of Washington, 1955, requiring the execution of one or both of the oaths called for in the foregoing statutes as a condition to the favorable acceptance of applications for employment by the University of Washington of persons similarly situated to plaintiffs constitute an abridgement of the rights, privileges and immunities of plaintiffs, and others similarly situated, as guaranteed and secured by Article I, Section 10 and the First, Fifth and Fourteenth Amendments of the Constitution of the United States?

3. Do the dismissal procedures of all non-tenured plaintiffs and other similarly situated as required by the memorandum from President Odegaard dated May 28, 1962, and/or Chapter 103, Laws of Washington, 1931, upon a failure of such persons to execute Oath forms A and B, operate in a summary and automatic manner and thereby constitute arbitrary and capricious state action forbidden by the First, Fifth and Fourteenth Amendments to the Constitution of the United States because Chapter 103, Laws of Washington, 1931, and Chapter 377, Laws of Washington, 1955, as thus interpreted:

(a) Operate in a vague and indefinite standard, which does not afford plaintiffs or other University of Washington employees,

1. a reasonable notice of charges;

2. the right to a hearing;

[fol. 242] 3. an opportunity to cross-examine witnesses supporting the charges;

4. an opportunity to offer evidence on one's own behalf;

5. the right to be represented by counsel.

4. Do the provisions of Chapter 103, Laws of Washington, 1931, and Chapter 377, Laws of Washington, 1955, commanding plaintiffs to sign the oaths required by the foregoing statutes violate the First, Fifth and Fourteenth Amendments to the Constitution of the United States, and are such statutes arbitrary and discriminatory and in derogation of the rights secured by the Fifth and Fourteenth Amendments to the Constitution of the United States to plaintiffs and to others similarly situated, inasmuch as the terms and wording of said required oaths:

(a) Are so fluid and vague that men of ordinary intelligence must necessarily guess as to their meaning and differ as to their application;

(b) Require all plaintiffs and other similarly situated to speculate as to penal laws which might be applied to them, thus deterring constitutionally protected conduct and subjecting them to a substantial risk of unfair prosecution if the oaths are not signed;

(c) Will inhibit, deprive and abridge the rights of plaintiffs and others similarly situated to the exercise of rights to freedom of speech, freedom of association and religious freedom constitutionally protected by the First, Fifth and Fourteenth Amendments to the Constitution of the United States.

(d) Require a declaration of belief in terms which are vague and indefinite.

(e) Necessarily require plaintiffs, and others similarly situated, to offer testimony against themselves.

5. Do the provisions of Chapter 103, Laws of Washington, 1931, demanding the oath there set forth deny and thus violate rights of freedom of speech, belief and association, freedom of religion and its exercise, and freedom from self-incrimination, secured to plaintiffs and to others similarly situated by the First, Fifth and Fourteenth Amendments to the Constitution of the United States?

6. Do the provisions of Chapter 377, Laws of Washington, 1955, amending Chapter 254, Laws of 1951 constitute

a prior restraint on either freedom of speech or association, or both, or upon academic liberty and freedom as [fol. 243] these rights are individually secured and guaranteed to plaintiffs and others similarly situated by the First, Fifth and Fourteenth Amendments to the Constitution of the United States?

7. Do the provisions of Chapter 103, Laws of Washington, 1931 and Chapter 377, Laws of Washington, 1955, and Oath Forms A and B constitute bills of attainder and an impairment of the obligations of contract in violation of Article I, Section 10 of the United States Constitution?

8. Do Oath forms A and B as applied to plaintiffs in the various classes, unreasonably abridge freedom of inquiry, communication and dissent, attributes and qualities which are a part of freedom of speech and association necessary to a university community?

9. Do Oath forms A and B unreasonably interfere with the contractual duty of plaintiffs who are teachers, to furnish the education under which they have a contractual duty to provide?

10. Does an actual controversy exist between the plaintiffs and others similarly situated, and the defendants?

11. Do the provisions of Chapter 103, Laws of Washington, 1931, amount to a restraint on conscience and a coercion of belief contrary to the safeguards of the First Amendment to the Constitution of the United States?

12. Do the dismissal procedures of tenured employees, and others similarly situated, as required by the memorandum from President Odegaard dated May 28, 1962, and/or Chapter 103, Laws of Washington, 1931, upon the failure of such persons to execute Oath form A, operate in a summary and automatic manner and thereby constitute arbitrary and capricious state action forbedden by the First, Fifth and Fourteenth Amendments to the Constitution of the United States of America?

[fol. 244] *Expert Witnesses*

There shall be no expert witnesses on behalf of plaintiffs or defendants, to testify in person or by deposition at trial. This fact and procedure expressly having been agreed upon by plaintiffs and defendants.

[fol. 245] *Other Witnesses*

The names of witnesses, other than experts, to be used by each party at the time of trial are:

(a) on behalf of plaintiffs:

1. Z. William Birnbaum (by deposition)
14620 Southeast 55th
Bellevue, Washington

(b) on behalf of defendants:

1. no witnesses either direct or rebuttal.

Other than the deposition of Z. William Birnbaum, noted immediately above, and the statements under *Facts Not To Be Contested* which are to be admitted into evidence and the makers of which shall not be called upon to testify further, there shall be no other witnesses at trial on behalf of plaintiffs or defendants, whether for purposes of direct examination and testimony or for rebuttal. This fact and procedure expressly having been agreed upon by plaintiffs and defendants.

[fol. 246] *Exhibits*

(a) The exhibits below listed were produced and marked and may be received into evidence without objection:

(1) *Plaintiff's exhibits:*

1. Oath Form A—Statement and Oath for Teaching Faculty of the University of Washington.

2. Oath Form B—Statement and Oath for Staff of the University of Washington Other than Teaching Faculty.

3. The Faculty Handbook, Parts I, II, and IV, pertinent provisions being found in Chapters 12, 13, 23, 24, 25 and 26.

4. The Faculty Handbook, Volume II (Supplement to the 1956 Faculty Handbook), pertinent provisions being found in Chapters 1, 2, 3 (Part C, Section 4).

5. Statutes, By-Laws and Standing Orders Affecting the Board of Regents, University of Washington, February 1958, Revised March 18, 1960.

6. Memorandum to the Deans from President, Charles E. Odegaard, on the subject of documentation for recommendations for Promotions of Tenure, dated February 6, 1959.

7. Inaugural Address of Charles E. Odegaard, President, University of Washington, delivered on November 7, 1958 in Seattle, Washington.

8. A copy of the letter dated January 23, 1962, from Solomon Katz, Dean of the College of Arts and Sciences, to Professor Walter Watson.

9. A copy of the letter, dated January 30, 1962, from Robert E. L. Faris, Executive Officer, Department of Sociology, to Professor Walter Watson.

10. Memorandum dated June 14, 1962, to all faculty, graduate assistants, and staff of the Department of Mathematics from Carl B. Allendoerfer, Chairman of that department.

[fol. 247] 11. A copy of the letter dated June 5, 1962, to Solomon Katz, Dean of the College of Arts and Sciences from Professor Ronald Geballe, Chairman Department of Physics.

12. A copy of the letter dated June 4, 1962, to Solomon Katz, Dean of the College of Arts and Sciences from Professor Kenneth E. Read, Chairman Department of Anthropology.

13. A copy of the letter dated June 6, 1962, to Kenneth Read, Chairman Department of Anthropology from Solomon Katz, Dean, College of Arts and Sciences.

14. A diagrammatic presentation of the structure of several statutes of the State of Washington which are in issue in this cause.

15. A copy of the letter dated December 18, 1961 to William B. Woolf from Carl B. Allendoerfer, Executive Officer, Department of Mathematics.

16. A copy of the affidavit executed June 19, 1962, by Mrs. Jean Ashford, Acting Librarian of the Health Sciences Library of the University of Washington.

17. A copy of the affidavit executed by Arthur F. Smullyan, Professor and Executive Officer of the Department of Philosophy at the University of Washington.

(2) *Defendant's exhibits:*

1. House Concurrent Resolution No. 10, Laws of 1947, p. 1378.

2. First Report, Un-American Activities In Washington State, 1948.

3. Second Report, Un-American Activities In Washington State, 1948.

4. Report of Un-American Activities Committee To The Thirty-first Legislature of the State of Washington (House Journal, 1949, p. 1095).

There shall be no additional exhibits other than those enumerated above. This fact and procedure expressly having been agreed upon by plaintiffs and defendants.

[fol. 248] *Miscellaneous*

I. Plaintiff, Z. William Birnbaum, was deposed on Thursday, July 5, 1962, at the hour of two o'clock, thereof, at the Hoge Building, Seattle, King County, Washington, before Louis R. Guevara, a notary public in and for the State of Washington. Said deposition has been filed with the court. Appearances of counsel for plaintiffs were Attorneys at Law, Arval Morris and Byron D. Coney. Appearances of counsel for defendants were Herbert H. Fuller, Deputy Attorney General for the State of Washington and Ernest M. Furnia, Assistant Attorney General for the State of Washington. This deposition taken of Z. William Birnbaum is attached to and is made a part of this

order and incorporated throughout; it being expressly agreed upon by plaintiffs and defendants that said deposition be admitted into evidence in its entirety and that they hereby waive any and all objections which were, or could have been, made at the time of taking this deposition, and also all objections which could be made in the future, at trial or at any other time, whether said objections would go to the form of the questions asked, the admissibility of the testimony, or to any other matter; excepting however, that counsel for defendants cannot, and do not, concede the truth of the matters testified to by Z. William Birnbaum, nor do counsel for defendants concede the probative value of his testimony in determining any of the issues in this case, but said counsel do not intend to contest his testimony at trial with evidence to the contrary.

2. Plaintiffs and defendants waive any and all objections either may have, in any way, going to any and all matters regarding pre-trial conferences heretofore held in this cause, including each and every aspect of this order, and/or its execution. This fact and procedure expressly having been agreed upon by plaintiffs and defendants.

[fol. 249] *Action by the Court*

The Court has ruled that:

(a) Trial briefs shall be submitted to the Court on or before August 23, 1962, and briefs in reply thereto, if any, on or before August 30, 1962.

(b) The deposition of Z. William Birnbaum, noted above, be, and hereby is, admitted into evidence. The same need not be read at time of trial.

(c) On motions to dismiss this action heretofore made by defendants, the following decisions and memorandum opinion be entered:

Memorandum Opinion on Motion to Dismiss

This matter is before the court upon an order to show cause why a temporary restraining order heretofore issued

should not be continued in effect as a preliminary and interlocutory injunction pending trial of this action and also upon defendants' motion to dismiss upon the following grounds:

1. To dismiss the action as to plaintiffs, Rocky Bauer, Jay Patrick Donaley, Roberta Milowe, and Wayne C. Muller, on the ground that they lack standing to challenge the validity of the oath requirement statute (Chapter 254, Laws of 1951, as amended, Chapter 377, Laws of 1955, RCW 9.81), inasmuch as they are not "public officials" or "employees" of the State of Washington within the meaning of that statute, but students attending the University of Washington; nor are they "teachers" under Chap. 103, Laws of 1931.

2. To dismiss the action as to all plaintiffs on the ground that it is premature and presents no real controversy in that there has been no showing that plaintiffs have refused to sign the oath in question.

3. To dismiss the action as to all plaintiffs on the ground that the court lacks jurisdiction because no substantial Federal question is presented by the complaint.

4. To dismiss the action as to all plaintiffs because the complaint fails to state a claim against defendants upon which relief can be granted.

Defendants, in argument, have indicated that the third ground given for their motion, namely, that the court lacks [fol. 250] jurisdiction because no substantial federal question is presented, will not be pursued, may be considered as stricken.

The Court having examined the complaint and the amendment thereto and considered the briefs and arguments of counsel, is of the opinion that the substantial claims and issues presented herein were decided in *Nostrand* v. *Balmer*, 53 Wn. 2d 460, 335 P. 2d 10; *Nostrand* v. *Little*, 58 Wn. 2d 111, 361 P. 2d 551, and *Nostrand* v. *Little*, 368 U.S. 436. It appears doubtful that plaintiffs can prevail after a hearing on the merits in view of *Nelson* v. *County of Los Angeles*, 362 U.S. 1; *Lerner* v. *Casey*, 357 U.S. 468; *Beilan* v. *Bd. of Education*, 357 U.S. 399; *Adler* v. *Board of Educa-*

tion, 342 U.S. 485; *Garner* v. *Los Angeles Board,* 341 U.S. 716.

However, in this action Professors Nostrand and Savelle have joined with additional parties, including non-tenured teachers, non-teaching employees of the University of Washington, and others, and have raised additional though tenuous issues which merit full consideration.

It is our view that the motion to dismiss should be denied except as to the first ground. The motion to dismiss the action as to plaintiffs, Rocky Bauer, Jay Patrick Donaley, Roberta Milowe and Wayne C. Muller, on the ground that they lack standing to challenge the validity of the oath-requirement statutes involved herein is well taken. These student-plaintiffs have no direct legal interest in the requirement imposed on the teaching personnel and other employees of the University that, as a condition of their employment, such employees must sign a statutorily-prescribed oath. Students are not required to subscribe to the oath.

The possibility of some future change in the quality or character of the education offered by the University of Washington, such as plaintiffs fear might result by reason of the oath requirement, is too contingent and remote to affect the legal interests of these student plaintiffs.

Applying established criteria for the determination of standing to litigate an issue the facts alleged do not show that the above-named student plaintiffs have sustained, or are immediately threatened with, any such definite and [fol. 251] actual injury as would establish the existence of a justiciable controversy between them and the defendants. See *Aetna Life Insurance Co.* v. *Haworth,* 300 U.S. 227; *Frothingham* v. *Mellon,* 262 U.S. 447; *Joint-Anti-Fascist Refugee Committee* v. *McGrath,* 351 U.S. 123.

The action will be dismissed as to plaintiffs, Rocky Bauer, Jay Patrick Donaley, Roberta Milowe, and Wayne C. Muller, and an order so providing may be presented.

With respect to the continuation of the restraining order as a temporary injunction counsel for defendants has stated in argument his view that in the event the motion to dismiss is denied the defendants would not resist the imposition of a temporary injunction pending trial, and it may be so ordered.

Defendants may have ten days within which to file their answer and the case is set for pretrial conference on August 6, 1962 at 1:30 o'clock, p.m., with trial on the merits set for Thursday, August 30, 1962, at 9:30 o'clock, a.m.

Dated this 13th day of July, 1962.

Gilbert H. Jertberg, United States Circuit Judge,
William J. Lindberg, United States District Judge,
William T. Beeks, United States District Judge.

(d) The motion to dismiss be and the same is hereby denied except as to the sole ground set forth above. It is therefore ordered that plaintiffs Rocky Bauer, Jay Patrick Donaley, Roberta Milowe and Wayne C. Muller be, and they hereby are, dismissed with prejudice.

(e) The heretofore issued preliminary and interlocutory injunction pending trial of this action be and hereby is continued and be, and hereby is, made a temporary injunction pending trial of this cause.

[fol. 252] The foregoing pretrial order has been approved by the parties hereto, as evidenced by the signature of their counsel hereon, and this order is hereby entered, as a result of which the pleadings pass out of the case, and this pretrial order shall not be amended except by order of the Court pursuant to agreement of the parties or to prevent manifest injustice.

Dated this 30th day of August, 1962.

Gilbert H. Jertberg, United States Circuit Judge,
William J. Lindberg, United States District Judge,
William T. Beeks, United States District Judge.

Form Approved:

Arval Morris, Attorney for Plaintiffs; Byron D. Coney, Attorney for Plaintiffs; Kenneth A. MacDonald, Attorney for Plaintiffs.

Herbert M. Fuller, Dep. Atty. Gen., of Attorneys for Defendants.

[fol. 253] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

NORTHERN DIVISION

No. 5598

LAWRENCE W. BAGGETT, Z. W. BIRNBAUM, JOOST E. BUSINGER, ISABEL S. CARO, GIOVANNI COSTIGAN, J. G. DASH, WILLIAM A. DAWSON, DAVID M. EAVES, JOHN M. EMLEN, T. SAUNDERS ENGLISH, VICTOR ERLICH, ROBERT G. FLEAGLE, RONALD GEBALLE, PATRICK T. GOLDSWORTHY, MILTON P. GORDON, ALVIN D. GREENBERG, ROBERT E. GREENGO, GORDON GRIFFITHS, W. MARY GRIFFITHS, ISAAC HALPERN, ARNOLD HANSON, W. STULL HOLT, ABRAHAM C. KELLER, ARTHUR L. KOBLER, SCOTT LYTLE, ROBERT W. MACDONALD, D. F. MAGEE, HENRY W. MAIER, WILLIAM H. MATCHETT, KARL P. MAUZEY, TREVOR J. MCMINN, IRVING MILOWE, RHOADS MURPHEY, DAVID S. NEWMAN, HOWARD NOSTRAND, GORDON H. ORIANS, SIMON OTTENBERG, JACK R. PARSONS, EUGENE C. PIZZUTO, MELVIN RADER, KENNETH EYRE READ, MAX SAVELLE, ANNICK SMITH, C. A. VALENTINE, LESLIE WARNER, JAMES B. WATSON, WALTER B. WATSON, PHILIP E. WILCOX, THEODORE W. WILCOX, WILLIAM B. WOOLF, PAUL DIETRICHSON, JON BRIDGMAN, BORIS A. JACOBSOHN, PATRICIA J. KELLER, LUCILLE L. CURTIS, ALBERT NUJENHUIS, RICHARD MORRILL, WILLIS KONICK, ROBERT G. CLARKE, THEODORE LANE, Plaintiffs,

vs.

DOROTHY BULLITT, JOSEPH DRUMHELLER, JOHN L. KING, HERBERT S. LITTLE, ALBERT MURPHY, JOHN J. O'CONNELL, CHARLES E. ODEGAARD, HAROLD S. SHEFELMAN, ROBERT J. WILLIS, Defendants.

MEMORANDUM OPINION—February 9, 1963

Before Jertberg, Circuit Judge, and Lindberg and Beeks, District Judges.

LINDBERG, District Judge:

This is a class action in which sixty plaintiffs employed at the University of Washington in both teaching and non-teaching positions seek declaratory and injunctive relief against the enforcement of two Washington statutes by defendants, the President of the University, the members of the Board of Regents, and the Attorney General of the State of Washington. The statutes under attack are Chapter [fol. 254] 377, Laws of 1955, amending the Subversive Activities Act of Washington, Chapter 254, Laws of 1951, herein sometimes referred to as the "loyalty oath" statute; and Chapter 103, Laws of 1931, herein sometimes referred to as the "oath of allegiance" statute.

It is alleged that, as applied to plaintiffs, these statutes are violative of Article 1, Section 10 and the First, Fifth, and Fourteenth Amendments of the Constitution of the United States. The court is asked to declare these statutes unconstitutional and to issue a permanent injunction against their enforcement.

Upon the filing of the complaint a three-judge district court was convened pursuant to the mandate of 28 U.S.C., §§ 2281 and 2284, and on July 13, 1962 heard arguments on plaintiffs' motion for an interlocutory injunction and defendants' motion to dismiss. The motion to dismiss was denied and a temporary injunction was issued pending a full hearing on the merits.

Pretrial conferences were held and an extensive pretrial order, approved by all parties, has been entered, containing a number of stipulations of fact relating to the events, the background, and academic setting of the controversy. Pursuant to stipulation by the parties no oral testimony was presented but statements of several persons were set forth in the pretrial order and a number of exhibits were admitted without objection. The issues of law have been carefully and extensively briefed and orally argued by counsel. This court has jurisdiction under 28 U.S.C., §§ 1331 and

1343(3), and 42 U.S.C., § 1983, relating to alleged deprivation of civil rights under color of state law.

[fol. 255] *Background of the Case*

Both of the Washington statutes involved require the taking of an oath by employees of the State of Washington. Although the oath of allegiance is required of teachers only, the 1955 statute, which is an amendment to the Subversive Activities Act,[1] provides that every employee of the State of Washington must state under oath whether or not he or she is a member of the Communist party or other subversive organization, and that refusal to answer on any ground shall be cause for immediate termination of such employee's employment or refusal to accept his or her application for employment. The terms "subversive person", "subversive organization" and "foreign subversive organization" as used in the Act are defined therein and the Communist party is declared to be a subversive organization.

While the oath of allegiance statute has not previously been attacked the loyalty oath statute has been the subject of prior litigation[2] commenced in the Superior Court of the State of Washington by Howard Nostrand and Max Savelle, tenured professors at the University of Washington, who are also plaintiffs in the instant case. The Supreme Court of Washington upheld the constitutionality of Chapter 377, Laws of 1955 against attack under both state and federal constitutions, with the exception of one section not here relevant, which section was declared to unconstitutional but severable. On appeal to the United States Supreme Court that court vacated the decision of the Supreme Court of Washington and remanded the case for a determination whether state employees who refused to sign the oath would be entitled to a hearing at which the refusal to sign the oath could be explained or defended. On the re-[fol. 256] mand the Washington court held that the statutes requiring the loyalty oath did not afford such a hearing but that professors Nostrand and Savelle, as tenured professors, would be entitled to such a hearing pursuant to the terms of their employment contract and under the rules promulgated by the Board of Regents in accordance with their statutory authority. An appeal was again taken to

the United States Supreme Court which, in a *per curiam* decision handed down January 22, 1962, granted the Attorney General's motion to dismiss "for want of a substantial federal question." Whereupon the injunction staying enforcement of the loyalty oath statute, which had been in effect since 1955, was dissolved.

Thereafter, in a memorandum issued on May 28, 1962 by President Odegaard pursuant to directions from the Board of Regents, notice was given to all University employees that they would be required to sign an oath which would fulfill the requirements of the Washington Subversive Activities Act, and October 1, 1962 was set as the final date for execution of such oath. Printed forms of an oath in the following language, which differs from that involved in the prior litigation, have been distributed to employees of the University:

> "I certify that I have read the provisions of RCW 9.81.010 (2), (3), and (5); RCW 9.81.060; RCW 9.81.070; and RCW 9.81.083 which are printed on the reverse hereof; that I understand and am familiar with the contents thereof; that I am not a subversive person as therein defined; and
>
> "I do solemnly swear (or affirm) that I am not a member of the Communist party or knowingly of any other subversive organization.
>
> "I understand that this statement and oath are made subject to the penalties of perjury." (Exhibit #2)

[fol. 257] The sections of the statute referred to in the oath are printed on the reverse side of the oath form as set forth in the footnotes.[3]

The oath of allegiance for teachers is prescribed by Section 1 of Chapter 103, Laws of 1931[4] and Section 2 of said Chapter,[5] states that every professor, instructor or teacher employed by any state institution of higher learning or any school supported in whole or in part by public funds shall subscribe to the oath or affirmation required of all public school teachers before entering upon the discharge of his duties.

The President and Board of Regents of the University of Washington have given notice to all teaching personnel

that they are required to subscribe to the oath of allegiance in addition to the loyalty oath. It is not disputed that defendants intend to exact compliance with the provisions of both oath statutes; that they have taken administrative steps to effect such compliance; and have given notice to all members of the University staff that in the event of failure of an employee to comply by subscribing to the oath or oaths required of him by October 1, 1962, "employment will be terminated 30 days later as of October 31, 1962, unless a delay in taking action to terminate seems reasonable because of causes other than intentional refusal to sign."[6] Nor is it disputed that all plaintiffs have refused to sign the oaths required of them, alleging that the statutes are violative of their rights under the United States Constitution. We therefore find that a justiciable controversy exists as to which this court has jurisdiction. *Bell* v. *Hood*, 327 U. S. 678.

Most of the plaintiffs, including three tenured professors who are aliens, are members of the teaching faculty and [fol. 258] are required by the Washington statutes to subscribe to both the loyalty oath and the oath of allegiance. Non-teaching employees are required to sign only the loyalty oath. Some of the plaintiffs are research associates of various ranks—one is a micrometeorologist, another is an assistant editor of the University of Washington Press, two are employed as secretary-typists, and another is a detailer in the cyclotron department. All plaintiffs are suing both for themselves and for others similarly situated.

Contentions

The basic claims of plaintiffs are as follows:

1. That the statutory requirements of oath-taking as a condition of employment by the state are unjustifiable invasions of rights of freedom of speech, belief, and association, and freedom of religion, all as protected by the First and Fourteenth Amendments to the Constitution of the United States.

2. That the oath requirements operate as a prior restraint upon free speech and free association and are destructive of academic liberty.

3. That the language of the oaths is vague and uncertain.

4. That the statutes violate the Fifth Amendment privilege against self-incrimination; and that the requirement of a positive act of oath-taking, on pain of loss of employment, unconstitutionally shifts the burden of proof on the question whether they are subversive persons.

5. That the statutes and administrative action contemplated thereunder provide for summary and automatic discharge on grounds unrelated to fitness for employment [fol. 259] and would deprive non-tenured employees of reputation and property rights without the protections of procedural due process, and are therefore an arbitrary and discriminatory exercise of state power.

6. That the 1955 loyalty oath statute is a bill of attainder.

7. Invoking the supremacy clause, plaintiffs argue that these statutes deal with sedition, a subject pre-empted by the Congress, under the holding of *Pennsylvania* v. *Nelson*, 350 U. S. 497. Plaintiffs further claim that the oath of allegiance statute interferes with the conduct of foreign relations in that it sets a condition for employment as a teacher in the state university which, in effect, excludes foreign scholars from teaching at the university.

Other arguments are addressed to the wisdom of the legislation and will not be discussed.

Defendants, on the other hand, contend that it is within the power of the State of Washington to require a loyalty oath as a condition of employment by the state for the purpose of safeguarding the state from disloyalty; and to prescribe the taking of an oath of allegiance as a qualification for fitness to teach. They deny that the oath requirements invade any constitutionally-protected rights of plaintiffs, deny that the oaths are vague and uncertain, and argue that it is not apparent in the present context of events that any employee will be denied procedural due process in any future proceeding for termination of employment for failure to subscribe to the required oath or oaths.

Discussion

We wish to emphasize at the outset that this is a declaratory judgment action. Enforcement of the statutes by [fol. 260] University officials, while clearly intended, is still prospective as a result of this litigation. The court granted a temporary restraining order on June 25, 1962. With the acquiescence of the defendants the restraining order was continued as a temporary injunction pending trial and is still in effect, pending the decision of the court. Consequently, although the date of October 1, 1962, set as the deadline date for University employees to subscribe to the oath, has come and gone, none of the plaintiffs has been dismissed for refusal to sign the oath or oaths. Thus the dismissal policies and hearing procedures which would actually be put into effect by the University administration are not known, which causes the "due process" issues to be speculative and difficult of resolution. The principal questions, however, must necessarily relate to the validity of the statutes as construed on their face and in the light of surrounding circumstances, and to these issues we direct our primary attention.

Plaintiffs have elected to treat the two oath statutes together in large part. In view of the conclusions we have reached we shall consider the statutes separately. All of the contentions of the parties which merit consideration will be treated in the course of discussion of the issues raised as to each statute.

The Loyalty Oath Statute

In considering the provisions of the 1955 amendment to the 1951 Subversive Activities Act, which form the basis for the loyalty oath requirement, we are not concerned with the effectiveness or the wisdom of loyalty oaths. We perceive the truth of the remark of Justice Black, concurring in *Speiser* v. *Randall*, 357 U. S. 513, 532:

> [fol. 261] "I am certain that loyalty to the United States can never be secured by the endless proliferation of 'loyalty oaths'; loyalty must arise spontaneously from the hearts of people who love their country and respect their government."

But questions of wisdom and effectiveness are matters of legislative and not judicial concern.

Was the legislation within the power of the Washington legislative body to enact? It cannot be questioned that a state has power to safeguard the public service from disloyalty;[7] and the right of the state to inquire of its employees concerning their loyalty has been recognized in a number of cases.[8] A statute enacted for such a purpose "comes to us encased in the armor wrought by prior legislative deliberation," [9] and we are mindful of "the deference due to legislative determination of the need for restriction upon particular forms of conduct." [10]

The 1951 statute was enacted by the legislature pursuant to executive request following a report of a joint fact-finding committee of the Washington legislature investigating un-American activities in the State of Washington.[11] It must be presumed that legislative findings sufficient to justify the enactment of the 1951 statute were made, and that the 1955 amendment was supported by the same findings. We are therefore unable to accept plaintiffs' argument that there has been no showing of a public danger sufficient to justify the enactment of restrictive legislation.

The loyalty oath is required of every state employee or applicant for state employment. But plaintiffs argue vehemently that loyalty oaths may not be required of academic personnel of a university; that such a condition is "utterly inconsistent" with the necessities of their role in the aca- [fol. 262] demic community as discoverers and transmitters of knowledge and truth; in effect, that they stand in a category apart. We cannot agree that members of state institutions of higher learning are constitutionally immune from inquiry into matters within the legitimate legislative concern, in the public interest.[12]

The next question is whether there is a rational relationship between the condition imposed by the statute and the particular public service rendered by those plaintiffs whose duties are of an academic nature. The essentiality of the preservation of universities as centers of thought, research and teaching can never be doubted. Nor can we overemphasize the absolute necessity of academic freedom as a

vital force, both in the effective functioning of these great educational institutions and in the maintenance of our democratic society.[13] Teaching and research personnel must do their work in an atmosphere of free inquiry, free of external restraints on thought, and equally free of secret restraints on their individual intellects. Academic freedom of inquiry and the fearless pursuit of truth and knowledge, wherever they may lead, is not possible for an individual who is fettered by dedicated membership in an association whose purpose is violent overthrow or destruction of our constitutional form of government, the very guardian of our rights and freedoms. Such an individual is incapable of fearless and untrammelled inquiry and creative thought because he is bound by a rigid adherence to an ideology governed by the political expediencies of its revolutionary purpose rather than by dedication to the verities wherever they may be discovered. Academic personnel should be unfettered by the restraints on free thought which such an association imposes if they are to effectively perform their [fol. 263] duties in the academic world. Education, not indoctrination, is the function of a university teacher.

The legislative declaration that one who is under the discipline of membership in a subversive organization, as defined in the statute, is unfit for a position of trust in the public service[14] is supported by reason and experience, and is most poignantly applicable to positions of trust in a state university, where an absence of both institutional and associational restraint on free thought and inquiry is of the essence of effective service. It is unnecessary to dwell at length on the influence exerted by university teachers in the molding and development of young minds. It is well recognized that inquiry into the moral and intellectual fitness of a teacher is relevant to the question of his fitness to teach.[15] We cannot say that application of the loyalty oath provisions to academic personnel of a state university is without rational relationship to the purposes of the entire legislative enactment, which was within the power of the State of Washington to enact.

May the desired information be elicited by use of a form of disclaimer oath as a substitute for individual inquiry

of each employee? We think it may, if the oath is sufficiently limited[16] to the area of legitimate state concern. In an institution as large as the University of Washington, to conduct personal interviews of all present and prospective employees concerning their loyalty would be administratively burdensome and might be subject to abuses. In lieu of such inquiry the university officials have elected to require a sworn statement, narrowly limited to the precise matters of legitimate state concern. So limited, the oath serves the same purpose as individual inquiry.

[fol. 264] But plaintiffs assert that the requirement that they sign the form of oath presented to them, in the language in which it is couched, unjustifiably invades their First Amendment freedoms of speech, belief and association, and will tend to discourage the exercise of constitutionally-protected rights of association and exchange of ideas, incidentally impairing their performance of their academic function. Such rights, whether in relation to academic liberty or otherwise, are to be accorded a high degree of constitutional protection, but they are not "absolutes." It is sometimes necessary to reconcile these constitutional protections against the exercise of valid governmental powers by a "balancing" of the interests involved.[17] Recent cases have made clear that a substantial invasion of such rights may not be justified by reliance on a state's right to inquire into the fitness and competency of teachers.[18] But we find no such invasion of constitutional rights by the statute and oath in question here. A careful consideration of the language of the oath confirms the impression left by a cursory reading; namely, that the oath does not require any statement as to the political, religious, economic or social beliefs of the person subscribing thereto, nor does it require him to refrain from membership in any kind of association whatever, *except* those associations which have an aim or purpose to overthrow, destroy or alter the constitution and government of the state or nation by revolution, force or violence.

The employee is not asked to reveal all his associational ties, past and present, as in *Shelton* v. *Tucker*;[19] nor is he asked, as in *Cramp* v. *Board of Public Instruction*,[20] to

swear that he has not "in the unending past ever knowingly lent (his) 'aid' or 'support', or 'advice' or 'counsel' [fol. 265] or 'influence' to the Communist party;" nor is he asked, as in *Sweezy* v. *New Hampshire*,[21] to make statements about matters of private conscience which are not clearly included within the scope of legislative concern. Plaintiffs' reliance on these cases is misplaced. In all three the requirement on which employment was conditioned is distinguishable from the condition here imposed. Plaintiffs here are simply required to state that they do not now and will not in the future engage in the proscribed subversive conduct nor become or remain a member of a subversive organization as defined in the statute. The Washington statute is not concerned with past membership, and the Washington court has held that the element of scienter is implied in every clause of the pertinent statutory provisions.[22] If denial of state employment to a "subversive" person, as defined in the statute, constitutes any invasion of constitutional rights of speech and association, the restriction certainly goes no further than may be justified, under "balancing" principles, by the state's interest in self preservation and in the qualifications and fitness of its employees.[23]

Plaintiffs further assert that the loyalty oath requirement operates as a prior restraint upon free speech and association and is destructive of academic liberty. This contention is bound up with the further argument that the structure and language of the oath is vague, leaving plaintiffs uncertain of the sweep of the statute and the kind of conduct or association which will disqualify an individual from public employment. Plaintiffs, relying on *Cramp*, *supra*, voice apprehension that at some future time, as a result of alleged vagueness, conduct and association which is nonconforming or which finds disfavor in the prevailing [fol. 266] community sentiment, will be found to be "subversive" under the terms of the statute. It is our view that a reasonable construction of the statutory language does not leave the meaning uncertain or vague—in any event not to the extent that the statute must or should be held unconstitutional in an action such as this. The words used

are to be understood in accordance with the ordinary meaning of the words in current usage.

Plaintiffs have singled out the words "abet", "assist", and "by any means" for criticism on the score of vagueness. According to Webster's New International Dictionary, 2nd edition, the ordinary meaning of those words in current usage is:

> "abet . . . To incite, encourage, instigate, or countenance;—now used chiefly in a bad or a disparaging sense; as, to abet the commission of a crime."
>
> "assist . . . To lend aid; to help."
>
> "by any means . . . . In any way; possibly; at all."

With these definitions in mind the meaning of "abet", "assist" and "by any means", as used in the statute, is free of ambiguity. It is not unreasonable to ask an employee to state that he "understands and is familiar with" the contents of the statutory provisions printed on the reverse side of the form. It is only necessary that he understand the concepts reasonably and ordinarily conveyed by the language. He is not required to speculate concerning the applicability of every conceivable or rare meaning of the words employed.

Plaintiffs also seize upon the words "alter" and "revolution" and argue that their inclusion in the statute must mean that public employees may not engage in conduct or association which seeks, by peaceful and lawful means, to [fol. 267] effect a radical change in the governmental structure. To find such a legislative intent in the statute would be unreasonable in view of the provisions in both state and federal constitutions for amendments to our constitutional form of government. It is not difficult to ascribe a strained interpretation to a statute if one is dissecting it with a view to the establishment of its invalidity, but sound principles of statutory construction require that the provisions of a statute be interpreted in a manner consistent with the intent and purpose of the entire enactment and the usual meaning of the language in the context in which it is employed. In context, it is clear that "revolution" as used does not refer to a peaceful change of a revolutionary nature.

It is to be construed along with the accompanying words "by . . . force or violence" and refers to forceful or violent revolution,[24] which has been the usual historical meaning of the word "revolution" when used in a political context. As so construed, the inclusion of the word "revolution" is admittedly redundant, but the fact of such redundancy will not sustain an argument that the legislature intended by the mere insertion of that word to fundamentally enlarge and change the whole scope and intent of the enactment in disregard of the established concepts of constitutional amendment or change by peaceful and lawful means. To state such an interpretation is to reveal its absurdity.

Similarly, the words "force or violence" as used in the statute clearly modify and relate back to the antecedent verb and noun, "alter" and "alteration," just as they modify the other verbs and nouns in the series of which they are a part; viz:

> [fol. 268] "any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction, or alteration of . . . the constitutional form of the government . . . by . . . force or violence."

It has not been shown that upon subscribing to the "disclaimer" oath plaintiffs will thereby experience any stifling of their freedom of inquiry, criticism and dissent, nor that their academic freedom will be impaired. Without questioning the sincerity of plaintiffs' fears that public hysteria or the temper of the times might conceivably at some future time bring about such a result we are unable in this declaratory judgment action to find any substantiation for such fears, on the face of the statute, or in the facts of record or within judicial knowledge. It is our conclusion that Chapter 377, Laws of Washington, 1955, does not constitute a prior restraint on First Amendment freedoms; nor are we constrained to find its language to be vague and uncertain.

As to alleged prior restraints, it is unnecessary to discuss the arguments based upon plaintiffs' interpretation of the cases of *Scales* v. *United States*[25] and *Noto* v. *United States*[26] because such arguments (to the effect that a state may not prohibit an inactive knowing membership in a sub-

versive organization and therefore may not condition public employment on an employee's undertaking to refrain from such an association) assume the premise that a state may not disqualify an individual for public employment on the ground that he engages in certain conduct or association when such conduct or association is not criminally punishable. The premise is unsound. Unreliability,[27] or insubordination,[28] or lack of frankness and candor in answering inquiries[29] may render an individual ineligible for employment without necessarily exposing him to criminal prosecu- [fol. 269] tion. Different standards are applicable, and Smith Act cases are not in point.

A further argument made against the validity of the loyalty oath statute is that it infringes upon the privilege against self-incrimination. There is no merit in this argument. The statutory requirement that government employees must answer relevant questions by written statement if they wish to establish their eligibility for employment does not require plaintiffs to give testimony against themselves. The absence of any inquiry into past conduct and the implied inclusion of the element of scienter negate the potential danger of self-incrimination. The statements in *Cramp, supra,* on which plaintiffs rely, were made in reference to an oath in language found to be unconstitutionally vague and are not applicable here.

Relying primarily on *Speiser* v. *Randall*,[30] plaintiffs further argue that the loyalty oath requirement is an unconstitutional shifting of the burden of proof in regard to the loyalty of a government employee. However, in *Konigsberg* v. *State Bar Association*,[31] the United States Supreme Court pointed out that there is a distinction between statutes penalizing or controlling free speech—like the statute found unconstitutional in *Speiser*—and those statutes "merely denying access to positions where unfitness may lead to abuse of state-given powers or privileges."[32] In *Speiser*, the court distinguished such cases as *Garner* v. *Board of Public Works*, 341 U. S. 716, *Gerende* v. *Board of Supervisors*, 341 U. S. 56, and *American Communications Assn.* v. *Douds*, 339 U. S. 382, in that the purpose of the statutes there involved was to protect "some interest clearly within the sphere of governmental concern" from an evil "suffi-

ciently grave to justify limited infringement of political [fol. 270] rights."[33] We think the statute here involved, insofar as it affects these plaintiffs, is similarly distinguishable. *Speiser* is therefore not controlling.

The pre-emption argument based on *Pennsylvania* v. *Nelson*,[34] need not detain us long, on these facts. The court's opinion in *Uphaus* v. *Wyman*,[35] indicates that *Nelson* did not strip the states of the right to guard their own security and a state may legitimately make inquiry and investigate in this area.

The contention that the loyalty oath statute is a bill of attainder was argued and disposed of in the course of the prior litigation and merits no discussion here. See also *Garner* v. *Board of Public Works*, *supra*, at page 722.

As in the prior litigation arising out of this statute, the question whether or not an employee who refuses to subscribe to the loyalty oath will be afforded a hearing prior to discharge presents a substantial issue of due process. The Supreme Court of the State of Washington has held in *Nostrand* v. *Little*[36] that professors with tenure are entitled to a hearing under the terms of their employment contract and the rules and regulations under which the University of Washington is operated. The rights of state employees other than tenured professors were not before the Washington court in *Nostrand* and the court did not feel obliged to reach the question of the hearing rights of employees other than the plaintiffs there.[37] Whether or not the non-tenured employees of the University—some of whom are plaintiffs here—have a right to a hearing under any statutory provisions is unclear. Defendants have argued that such employees may be entitled to a hearing under the provisions of the Administrative Procedure Act[38] or under the State Civil Service Law.[39] Plaintiffs, on the other hand, [fol. 271] have argued that neither the Administrative Procedure Act, as construed in *Nostrand* v. *Little*, *supra*, nor the civil service statute are applicable to employees of the University, which is operated under rules and regulations adopted by the Board of Regents pursuant to statutory authority.[40]

Plaintiffs interpret the statutory language: "refusal to answer on any grounds shall be cause for immediate termi-

nation of . . . employment" [41] to mean that upon the refusal of an employee to sign the oath, for no matter what reasons, discharge will follow automatically and immediately, without any opportunity for the employee to explain or defend his refusal to sign. Plaintiffs' reading of the directive issued from the office of the President of the University requiring compliance with the statutory oath provisions leads plaintiffs to the conclusion that university officials similarly interpret the statute as requiring *automatic* and summary discharge for every refusal to sign regardless of the basis of the refusal. The statutory language does not compel such a conclusion and we are not persuaded that it is so interpreted by the University administration, nor that the statute will be so administered by them. The fact that refusal on any ground is declared to be "cause" for immediate termination of employment does not close the door to hearing and inquiry; nor does it preclude the exercise of administrative discretion if it should appear that the refusal to sign the oath is in no way related to a wilful refusal to make disclosure as to whether or not the employee is a member of a subversive organization.

In connection with the "automatic discharge" issue, defendants have cited the case of *Nelson* v. *Los Angeles County*,[42] which involved discharges of two county em- [fol. 272] ployees—one permanent, one temporary—after they refused to answer inquiries of an investigating committee relating to subversive activities. The case is not helpful inasmuch as the employees in *Nelson* were discharged for "insubordination." Furthermore, affirmance of the discharge of the permanent employee was by an equally divided court which renders the case of little value as a precedent.[43]

Plaintiffs, in turn, rely on *Slochower* v. *Board of Education*,[44] in which a statute providing for discharge of city employees who invoke the Fifth Amendment was held to be arbitrary and unreasonable because based on a "built-in" inference of guilt from the invoking of the constitutional privilege.

Although discharge of a state employee for failing to fulfill a condition of employment by signing the loyalty oath carries no necessary inference of disloyalty of the employee,

it would be ostrich-like to ignore the practical realities of a public opinion which tends to attach a stigma of disloyalty to such a discharge, a stigma which may have a profound effect on the discharged employee's future employment and social and economic status. The severe impact of such a discharge upon an employee whose refusal may be motivated by considerations unrelated to disloyalty, invokes the protection of due process with compelling force.

The United States Supreme Court, in referring to language used in *Adler* v. *Board of Education*[45] and *United Public Workers* v. *Mitchell*,[46] has said, through Justice Clark:

> "To draw from this language the facile generalization that there is no constitutionally protected right to public employment is to obscure the issue . . . We need not pause to consider whether an abstract right to [fol. 273] public employment exists. It is sufficient to say that constitutional protection does extend to the public servant whose exclusion pursuant to a statute is patently arbitrary or discriminatory."

This principle expressed in *Wieman* v. *Updegraff*[47] was recently reaffirmed in *Cramp* v. *Board of Public Instruction*.[48]

It has not been urged here by defendants that plaintiffs are not entitled to such constitutional protection. On the contrary, defendants in their brief have urged this court not to assume that non-tenured employees are not entitled to a hearing under some aspect of Washington law. As was pointed out earlier in this opinion, in this declaratory judgment proceeding the dismissal policies and hearing procedures which would actually be put into effect by the University administration under the statute and/or under its own rules and regulations are a matter for speculation. On the showing here made this court will not presume that the defendant state officials will act arbitrarily or in disregard of constitutional rights of public employees, but this court must assume that the statute will be administered and applied in a constitutional manner.[49]

Finding no invalidity of Chapter 377, Laws of 1955, either on its face or in the light of the facts of record, we pass on

to a consideration of the oath of allegiance provisions of Chapter 103, Laws of 1931.

The Oath of Allegiance Statute

In the codification of Chapter 103, Laws of 1931 (RCW 28.70.150 and RCW 28.76.230), certain changes have been made in the language of some sections thereof. For this reason the entire chapter is set out in the footnotes for reference.[30] The statutorily-prescribed language of the oath [fol. 274] of allegiance is found in Section 1 of Chapter 103, which reads:

> "That every person applying for a license to teach or renewing an existing contract, in the State of Washington, shall take and subscribe to the following oath or affirmation:
>
> "'I solemnly swear (or affirm) that I will support the constitution and laws of the United States of America and of the State of Washington, and will by precept and example promote respect for the flag and the institutions of the United States of America and the State of Washington, reverence for law and order and undivided allegiance to the government of the United States.'
>
> "No license to teach in the State of Washington shall be issued, or contract, or renewal thereof, signed by any school board, unless it shall affirmatively appear on said license or in said contract, or renewal thereof that such teacher has taken, subscribed and filed therewith the foregoing oath or affirmation."

In view of the mandatory language of the statute there can be little doubt that dismissal or ineligibility must necessarily and automatically result from refusal of a teacher to sign this oath.

Insofar as the arguments heretofore considered with respect to the loyalty oath are advanced also in connection with the attack on the validity of the oath of allegiance statute, the preceding discussion of the points raised is applicable. Additional arguments particularly addressed to the oath of allegiance relate to alleged vagueness of the lan-

guage employed in the statutory form of oath; alleged infringement of religious liberty; and alleged interference with foreign relations, by, in effect, excluding foreign scholars from teaching positions at the University of Washington.

With regard to the latter argument we entertain doubts that the Washington legislature had in contemplation the [fol. 275] application of the oath requirement to aliens, or that the enactment consciously expressed any legislative intent to exclude foreign citizens from teaching positions in the State of Washington. In actuality, the oath prescribed by the 1931 statute has not been required of alien members of the teaching faculty at the University of Washington; but they have been permitted to modify the statutory language to reflect a limitation of the undertaking to that which is compatible with citizenship in another sovereign nation. It has been stipulated that it is the intention of the University administration to continue this policy.[51] In practice, foreign scholars are not excluded from teaching at the University of Washington nor is a condition imposed on them which is unreasonably inconsistent with their own national allegiance. On these facts, neither the impact of the 1931 statute on aliens nor any speculative effect of its enforcement on the pre-empted field of foreign relations, are properly before this court. The alien plaintiffs may not challenge the constitutional validity of a statute with respect to an application thereof which has never been enforced.[52]

Plaintiffs raise issues in regard to alleged vagueness of the language of the prescribed oath of allegiance. In particular, they find uncertainty in the meaning and scope of the words, "institutions", "reverence for law and order", and "undivided allegiance to the government . . ." Certain plaintiffs who are Quakers are alarmed by what to them is the import of the phrase "undivided allegiance to the government . . .", which they construe to exclude the possibility of allegiance to God, humanity, individual conscience, or the concept of world government. In plaintiffs' brief it is argued that the statute seeks to establish an offi- [fol. 276] cial religion of secular nationalism and thereby infringes on religious freedoms guaranteed by the First Amendment to the United States Constitution.

Plaintiffs further state they do not know what positive changes in their subject-matter teaching may be expected of them if they swear to "promote" by "precept" and "example" the qualities enumerated in the statute.

These contentions of vagueness of the oath of allegiance statute raise substantial constitutional issues, bringing into question as they do the meaning and intended scope of the statute. Although statutory construction may resolve these questions in such a way as to remove doubts concerning constitutionality, it appears that the Supreme Court of Washington has never had occasion to construe the oath of allegiance provisions of Chapter 103, Laws of 1931, although declaratory judgment proceedings are available in the Washington courts. Authoritative interpretation of the statute by the Washington court may avoid the constitutional issue, or show it in clearer perspective, or resolve it. The following statements from Justice Stone's opinion in *Federation of Labor* v. *McAdory*[52] seem particularly applicable to the present case:

> "In advance of an authoritative construction of a state statute, which the state court alone can make, this Court cannot know whether the state court, when called on to apply the statute to a defined case or controversy, may not construe the statute so as to avoid the constitutional question. For us to decide the constitutional question by anticipating such an authoritative construction of the state statute would be either to decide the question unnecessarily or rest our decision on the unstable foundation of our own construction of the state statute which the state court would not be bound to follow. *Spector Motor Co.* v. *McLaughlin, supra*, 105; see also *Vandenbark* v. *Owens-Illinois Co.*, 311 U. S. 538, 543; *Huddleston* v. *Dwyer*, 322 U. S. 232. Such is not the function of the declaratory judgment.

> [fol. 277] "... it is in the public interest to avoid the needless determination of constitutional questions and the needless obstruction to the domestic policy of the states by forestalling state action in construing and applying its own statutes. See *Great Lakes Co.* v. *Huffman, supra*, 300, et seq."

The granting or withholding of equitable or declaratory relief in federal court suits which seek to limit or control state action is committed to the sound discretion of the court.[34] Accordingly, in the absence of a concrete factual showing that any plaintiff or any member of the classes of state employees here represented has suffered actual injury by reason of the application of the oath of allegiance statute (Chapter 103, Laws of 1931) this court will decline to render a declaratory judgment as to the constitutionality of that statute in advance of an authoritative construction by the Washington Supreme Court.

Having found no invalidity of Chapter 377, Laws of 1955, and having declined to consider the constitutionality of Chapter 103, Laws of 1931 in advance of state court interpretation, we deny plaintiffs' request for a permanent injunction against the enforcement of these statutes, and the preliminary injunction now in effect will be dissolved.

Counsel are directed to file with the clerk of the court within ten days from the date of this opinion an order in accordance with the conclusions herein stated.

Dated February 9, 1963.

Gilbert H. Jutting, United States Circuit Judge,
William J. Lindberg, United States District Judge,
W. S. Beeks, United States District Judge.

[fol. 278]

FOOTNOTES

[1] Chapter 9.81, Revised Code of Washington.

[2] *Nostrand* v. *Balmer*, 53 W. 2d 460; *Nostrand* v. *Little*, 362 U. S. 474; *Nostrand* v. *Little*, 58 W. 2d 111; *Nostrand* v. *Little*, 368 U. S. 436.

[3] *Subversive Person Ineligible for Public Employment.*

"No subversive person, as defined in this act, shall be eligible for employment in, or appointment to any office, or any position of trust or profit in the government, or in the administration of the business, of this state, or of any county, municipality, or other political subdivision of this state." (RCW 9.81.060)

Definition of Subversive Person, Subversive Organization, and Foreign Subversive Organization.

"(5) 'Subversive person' means any person who commits, attempts to commit, or aids in the commission, or advocates, abets, advises or teaches by any means any person to commit, attempt to commit, or aid in the commission of any act intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or any political subdivision of either of them by revolution, force, or violence; or who with knowledge that the organization is an organization as described in subsections (2) and (3) hereof, becomes or remains a member of a subversive organization or a foreign subversive organization." (RCW 9.81.010 (5))

"(2) 'Subversive organization' means any organization which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or advocate, abet, advise, or teach activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of, the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, by revolution, force or violence." (RCW 9.81.010 (2))

"(3) 'Foreign subversive organization' means any organization directed, dominated or controlled directly or indirectly by a foreign government which engages in or advocates, abets, advises, or teaches, or a purpose of which is to engage in or to advocate, abet, advise, or teach, activities intended to overthrow, destroy or alter, or to assist in the overthrow, destruction or alteration of the constitutional form of the government of the United States, or of the state of Washington, or of any political subdivision of either of them, and to establish in place thereof any form of government the direction and control of which is to be vested in, or exercised by or under, the domination or control of any foreign government, organization, or individual." (RCW 9.81.010(3))

[fol. 279]

Communist Party Declared to be Subversive Organization.

"The communist party is a subversive organization within the purview of chapter 9.81 and membership in the communist party is a subversive activity thereunder." (RCW 9.81.083)

Oath Required of Employees of State of Washington.

". . . Every such person, board, commission, council, department, court, or other agency shall require every employee or applicant for employment to state under oath whether or not he or she is a member of the communist party or other subversive organization, and refusal to answer on any grounds shall be cause for immediate termination of such employee's employment or for refusal to accept his or her application for employment." (RCW 9.81.070)

* RCW 28.70.150.

[5] RCW 28.76.230.

[6] Memorandum to All Members of University Staff, distributed by the office of the President on 28th day of May, 1962; Pretrial Order, pages 85-87.

[7] *Cramp* v. *Board of Public Instruction*, 368 U.S. 278, 288. *Uphaus* v. *Wyman*, 360 U.S. 72, 76-77.

[8] *Gerende* v. *Board of Supervisors*, 341 U.S. 56; *Garner* v. *Board of Public Works*, 341 U. S. 716; *Beilan* v. *Board of Education*, 357 U. S. 399; *Lerner* v. *Casey*, 357 U. S. 468; *Adler* v. *Board of Education*, 342 U. S. 485.

[9] *Bridges* v. *California*, 314 U. S. 252, 261.

[10] *American Communications Ass'n* v. *Douds*, 339 U.S. 382, 401.

[11] *Nostrand* v. *Balmer*, 53 W. 2d 460, 465.

[12] See *Barenblatt* v. *United States*, 360 U.S. 109, 112.

[13] See *Sweezy* v. *New Hampshire*, 354 U. S. 234.

[14] RCW 9.81.060.

[15] *Shelton* v. *Tucker*, 364 U. S. 479; *Adler* v. *Board of Education*, 342 U. S. 485.

[16] See *Gerende* v. *Board of Supervisors*, 341 U. S. 56; *Garner* v. *Board of Public Works*, 341 U. S. 716.

[17] *Konigsberg* v. *State Bar*, 366 U. S. 36.

[18] *Cramp* v. *Board of Public Instruction*, 368 U. S. 278; *Shelton* v. *Tucker*, 364 U. S. 479.

[19] 364 U. S. 479.

[20] 368 U. S. 278, 286.

[21] 354 U. S. 234.

[22] *Nostrand* v. *Balmer*, 53 W. 2d 460, 484.

[fol. 280]

[23] See *Uphaus* v. *Wyman*, 360 U. S. 72, 80.

[24] See *Shub* v. *Simpson*, 196 Md. 177, 76 A. 2d 332, certiorari denied 340 U. S. 861, in which the Maryland court so construed a statute couched in terms substantially similar to those employed in Chapter 377, Laws of Washington, 1955; and

Gerende v. *Board of Supervisors*, 341 U. S. 56, in which the United States Supreme Court affirmed *per curiam* a Maryland decision based on the interpretation of the statute as given in *Shub*.

[25] 367 U. S. 203.

[26] 367 U. S. 290.

[27] *Lerner* v. *Casey*, 357 U. S. 468.

[28] *Nelson* v. *Los Angeles County*, 362 U. S. 1.

[29] *Beilan* v. *Board of Education*, 357 U. S. 399.

[30] 357 U. S. 513.

[31] 366 U. S. 36.

[32] Id at page 52.

[33] *Speiser* v. *Randall*, 357 U. S. 513, 527.

[34] 350 U. S. 497.

[35] 360 U. S. 72.

[36] 58 W. 2d 111.

[37] *Nostrand* v. *Little*, 58 W. 2d 111, footnote 6 at page 133.

[38] Chapter 234, Laws of Washington, 1959; RCW 30.04.010 et seq.

[39] Chapter 1, Laws of Washington, 1961; Chapter 41.06, RCW.

[40] RCW 28.77.120 and RCW 28.77.130.

[41] RCW 9.81.070.

[42] 362 U. S. 1.

[43] *United States* v. *Pink*, 315 U. S. 203, 216; *Hertz* v. *Woodman*, 218 U. S. 205, 213-214.

[44] 350 U. S. 551.

[45] 342 U. S. 485.

[46] 330 U. S. 75.

[47] 344 U. S. 183, 191-2.

[48] 368 U. S. 278, 288.

[49] *Cf. Shuttlesworth* v. *Birmingham Board of Education*, 162 F. Supp. 372, 384; affirmed *per curiam* 358 U. S. 101.

[fol. 281]

[50] Chapter 103, Laws of Washington, 1931:

"Section 1. That every person applying for a license to teach or renewing an existing contract, in the State of Washington, shall take and subscribe to the following oath or affirmation:

"'I solemnly swear (or affirm) that I will support the constitution and laws of the United States of America and of the State of Washington, and will by precept and example promote respect for the flag and the institutions of the United States of America and the State of Washington, reverence for law and order and undivided allegiance to the government of the United States.'

"No license to teach in the State of Washington shall be issued, or contract, or renewal thereof, signed by any school board, unless it shall affirmatively appear on said license or in said contract, or renewal thereof that such teacher has taken, subscribed and filed therewith the foregoing oath or affirmation.

"Sec. 2. Every professor, instructor or teacher, who shall be employed hereafter or whose contract may be renewed by any state institution of higher education, or any school supported in whole or in part by public funds, or is entirely or in part exempt from taxation, shall before entering upon the discharge of his or her duties subscribe to the oath or affirmation prescribed in section 1 before a person authorized by law to administer oaths and/or affirmations, such oath or affirmation to be executed in duplicate and one copy filed with the head of such institution and the other retained by such deponent.

"Sec. 3. The clerks of school boards are hereby authorized to administer the oath required by this act.

"Sec. 4. It shall be unlawful for any person authorized to issue license to teach or any school board to hereafter issue any new license to teach in the state or execute any contract or renewal thereof with any person or persons who fail or refuse to execute the oath or affirmation herein provided, and any contract executed or renewed or license issued in violation hereof shall be and is hereby declared to be null and void.

"Sec. 5. If any section of this act shall for any reason be held invalid, that such construction shall not affect the other provisions herein contained not expressly invalidated.

"Sec. 6. The oath herein provided shall be required of all teachers whose contracts are renewed or executed from and after March 1, 1931.

"Passed the Senate March 4, 1931.
"Passed the House March 10, 1931.
"Approved by the Governor March 20, 1931."

[fol. 282]

[51] Pretrial Order, page 77.

[52] Cf. *Poe* v. *Ullman*, 367 U. S. 497.

[53] 325 U.S. 450, 470-1.

[54] *Federation of Labor* v. *McAdory*, 325 U. S. 450; *Great Lakes Co.* v. *Huffman*, 319 U. S. 293; *Railroad Comm.* v. *Pullman Co.*, 312 U. S. 496; *Burford* v. *Sun Oil Co.*, 319 U. S. 315.

[fol. 283] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
NORTHERN DIVISION
No. 5598

LAWRENCE W. BAGGETT, et al., Plaintiffs,

vs.

DOROTHY BULLITT, et al., Defendants.

MOTION TO STAY ENFORCEMENT OF JUDGMENT—
Filed February 19, 1963

Come now the plaintiffs through Kenneth A. MacDonald, one of their counsel of record and moves this Court for an Order staying the enforcement of the judgment when entered herein, and moving parties give the following brief written statement of reasons in support of this motion:

I

The appeal to be presented to the United States Supreme Court from the final judgment to be entered herein may become meaningless and that Court will lose jurisdiction thereof, if, the acts sought to be here enjoined have irretrievably occurred:

Brownlow v. *Schwartz*, 261 U.S. 216;
Richardson v. *McChesney*, 218 U.S. 487.

II

It is urgent and imperative that the status quo of the subject matter be preserved and the aforesaid jurisdiction of the Court protected in order to pass upon the substantial federal questions involved.

III

Plaintiffs submit herewith a supersedeas bond conditioned for the satisfaction of costs incurred by defendants on appeal, together with interest, in accordance with Rule 18, Supreme Court Rules.

IV

This motion should be presented after the entry of the [fol. 284] judgment, but because plaintiffs are before a three-judge District Court and because one judge thereof may not issue a stay, the motion is made now so that the three-judge Court can consider the motion at the time of considering and signing the judgment following submission of proposed orders by counsel.

Cumberland Telephone and Telegraph Co. v. *Louisiana P.S. Commission*, 260 US 212.

V

Plaintiffs are seeking a stay of a final judgment and thus this Court has a power to grant a stay. See *Twentieth Century Airlines v. Ryan*, 74 S Ct 8 98 L ed 143.

VI

Plaintiffs grant that any stay be for a limited time and conditioned upon their promptly giving proper notice of appeal, and taking affirmative steps to process and effect the appeal to the Supreme Court of the United States.

Wherefore, plaintiffs move that upon due notice and hearing, this Court stay enforcement of the judgment to be entered herein to allow plaintiffs to present their appeal promptly and diligently to the Supreme Court of the United States.

Dated at Seattle, Washington, this 19th day of February, 1963.

Kenneth A. MacDonald, Of Counsel for Plaintiffs.

Proof of service (omitted in printing).

[fol. 285] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

NORTHERN DIVISION

No. 5598

LAWRENCE W. BAGGETT, et al., Plaintiffs,

v.

DOROTHY BULLITT, et al., Defendants.

JUDGMENT AND ORDER—February 25, 1963

This class action asking the court to declare unconstitutional Chapter 377, Laws of 1955 of the State of Washington and Chapter 103, Laws of 1931 of the State of Washington, and seeking the issuance of a permanent injunction against the enforcement thereof, having come on regularly for hearing before this three-judge district court convened pursuant to the mandate of 28 U.S.C. §§ 2281 and 2284, and the court having studied the pretrial order, and the briefs filed herein, having heard arguments of counsel, and having heretofore filed a memorandum opinion, and being fully advised; now, therefore, the court enters its final judgment as follows:

It is adjudged that Chapter 377, Laws of 1955 of the State of Washington does not violate Article 1, Section 10, the First Amendment, the Fifth Amendment, or the Fourteenth Amendment of the Constitution of the United States; the subject-matter covered by said statute has not been preempted by Congress; and said statute is not unconstitutional.

It is adjudged that no declaratory judgment as to the constitutionality of Chapter 103, Laws of 1931 of the State of Washington, will be rendered by this court in advance of an authoritative interpretation of said statute by the [fol. 286] Supreme Court of the State of Washington.

It is ordered that the application for a permanent injunction against the enforcement of the abovementioned statutes be and it hereby is denied, and the complaint be and it hereby is dismissed with prejudice, and defendants are awarded their costs herein.

It is further ordered that the preliminary injunction now in effect herein be and it hereby is dissolved, subject, however, to any stay of the enforcement of this judgment which may be entered by this court pending an appeal to the Supreme Court of the United States.

Dated this 25th day of February, 1963.

Gilbert H. Jertberg, United States Circuit Judge.
William J. Lindberg, United States District Judge.
W. F. Beeks, United States District Judge.

[fol. 287]

IN THE UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF WASHINGTON

NORTHERN DIVISION

No. 5598

LAWRENCE W. BAGGETT, et al., Plaintiffs,

v.

DOROTHY BULLITT, et al., Defendants.

ORDER STAYING ENFORCEMENT OF JUDGMENT
—February 26, 1963

The court having heretofore filed a memorandum opinion and having entered judgment herein on the 25th day of February, 1963, and the plaintiffs having moved the court for an order staying the enforcement of the judgment

pending appeal, and the Court being of the opinion that a stay of the judgment should be granted pending appeal to the Supreme Court of the United States, now therefore,

It is ordered that, upon the filing of notice of appeal and of a suitable supersedeas bond in the amount of One Thousand ($1,000) Dollars conditioned for the satisfaction of costs incurred by defendants on appeal, together with interest, the enforcement of the judgment heretofore entered will be stayed for sixty days, subject to extension of the stay until final disposition of the case by the Supreme Court of the United States, upon a showing of prompt and diligent prosecution of the appeal.

Dated this 26th day of February, 1963.

Gilbert H. Jertberg, United States Circuit Judge.
William J. Lindberg, United States District Judge.
W. F. Beeks, United States District Judge.

[fol. 288] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
NORTHERN DIVISION
No. 5598

LAWRENCE W. BAGGETT, Z. W. BIRNBAUM, JOOST E. BUSINGER, ISABEL S. CARO, GIOVANNI COSTIGAN, J. G. DASH, WILLIAM A. DAWSON, DAVID M. EAVES, JOHN M. EMLEN, T. SAUNDERS ENGLISH, VICTOR ERLICH, ROBERT G. FLEAGLE, RONALD GEBALLE, PATRICK T. GOLDSWORTHY, MILTON P. GORDON, ALVIN D. GREENBERG, ROBERT E. GREENGO, GORDON GRIFFITHS, W. MARY GRIFFITHS, ISAAC HALPERN, ARNOLD HANSON, W. STULL HOLT, ABRAHAM C. KELLER, ARTHUR L. KOBLER, SCOTT LYTLE, ROBERT W. MACDONALD, D. F. MAGEE, HENRY W. MAIER, WILLIAM H. MATCHETT, KARL P. MAUZEY, TREVOR J. MCMINN, IRVING MILOWE, RHOADS MURPHEY, DAVID S. NEWMAN, HOWARD NOSTRAND, GORDON H. ORIANS, SIMON OTTENBERG, JACK R. PARSONS, EUGENE C. PIZZUTO, MELVIN RADER, KENNETH EYRE READ, MAX SAVELLE, ANNICK SMITH, C. A. VALENTINE, LESLIE WARNER, JAMES B. WATSON, WALTER B. WATSON, PHILIP E. WILCOX, THEODORE W. WILCOX, WILLIAM B. WOOLF, PAUL DIETRICHSON, JON BRIDGMAN, BORIS A. JACOBSOHN, PATRICIA J. KELLER, LUCILLE L. CURTIS, ALBERT NUJENHUIS, RICHARD MORRILL, WILLIS KONICK, ROBERT G. CLARKE, THEODORE LANE, Plaintiffs,

vs.

DOROTHY BULLITT, JOSEPH DRUMHELLER, JOHN L. KING, HERBERT S. LITTLE, ALBERT MURPHY, JOHN J. O'CONNELL, CHARLES E. ODEGAARD, HAROLD S. SHEFELMAN, ROBERT J. WILLIS, Defendants.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES—Filed April 23, 1963

I

Notice Is Hereby Given that Lawrence W. Baggett, Z. W. Birnbaum, Joost E. Businger, Isabel S. Caro, Giovanni

Costigan, J. G. Dash, William A. Dawson, David M. Eaves, John M. Emlen, T. Saunders English, Victor Erlich, Robert G. Fleagle, Ronald Geballe, Patrick T. Goldsworthy, Milton P. Gordon, Alvin D. Greenberg, Robert E. Greengo, Gordon Griffiths, W. Mary Griffiths, Isaac Halpern, Arnold Hanson, W. Stull Holt, Abraham C. Keller, Arthur L. Kobler, Scott [fol. 289] Lytle, Robert W. MacDonald, D. F. Magee, Henry W. Maier, William H. Matchett, Karl P. Mauzey, Trevor J. McMinn, Irving Milowe, Rhoads Murphey, David S. Newman, Howard Nostrand, Gordon H. Orians, Simon Ottenberg, Jack R. Parsons, Eugene C. Pizzuto, Melvin Rader, Kenneth Eyre Read, Max Savelle, Annick Smith, C. A. Valentine, Leslie Warner, James B. Watson, Walter B. Watson, Philip E. Wilcox, Theodore W. Wilcox, William B. Woolf. Paul Dietrichson, Jon Bridgman, Boris A. Jacob, sohn, Patricia J. Keller, Lucille L. Curtis, Albert Nujenhuis, Richard Morrill, Willis Konick, Robert G. Clarke, and Theodore Lane, plaintiffs above named, appeal to the Supreme Court of the United States from the judgment and every part thereof as signed February 25, 1963 by Gilbert H. Jertberg, William J. Lindberg and W. T. Beeks, Judges of a three judge court (28 USC, Sections 2281 and 2284) sitting in the United States District Court, Western District of Washington, and as filed with the Clerk of that Court on February 25, 1963.

This appeal is taken pursuant to 28 USC, §1253 (62 Stat 926).

II

The Clerk of the United States District Court, Western District of Washington, Northern Division, will please prepare the following portions of the record and certify such portions to the Supreme Court of the United States:

Summons and Complaint

Affidavit of Service

Petition by Arval A. Morris to participate as counsel for plaintiffs

Order permitting Arval A. Morris to participate as counsel for plaintiffs

Motion to Dismiss Alex G. Gottfried as a plaintiff

Order Dismissing Alex G. Gottfried as plaintiff

[fol. 290] Application for Temporary Injunction and Temporary Restraining Order Restraining the University of Washington through Defendants from enforcing both oaths, and following affidavits in support thereof:

1. Gordon Griffiths
2. Kenneth E. Read
3. Ronald Geballe

Affidavit of Fred Thieme

Affidavit of Jean Ashford

Temporary Restraining Order and Order to Show Cause

Temporary Restraining Order Bond

Defendants' Motion to Dismiss

Memorandum in support of motion to dismiss with supporting papers

Notice of Amendment of Complaint amending paragraph No. 76

Memorandum in opposition to motion to dismiss and in support of motion for temporary injunction

Defendants' Memorandum in reply to portions of plaintiffs' brief opposing motion to dismiss

Memorandum Opinion on Motion to Dismiss

Affidavit of Service by Reginald Alleyne of Defendants' Memorandum in reply to portions of Plaintiffs' Brief opposing Motion to Dismiss

Order Dismissing Certain Plaintiffs

Answer

Notice of Deposition upon Oral Examination of Dr. Charles Odegaard and Herbert S. Little

Praecipe for issuance of subpoenas

Index to Pre-Trial Order

Trial Brief for plaintiffs

Trial Brief for defendants

Trial Reply Brief for plaintiffs

Motion by Defendant for continuance

Pre-Trial Order

Defendants' Reply Brief

[fol. 291] Memorandum Opinion

Motion to Stay Enforcement of Judgment

Plaintiffs' authority in support of motion to stay enforcement of judgment

Notice of Motion

Judgment and Order

Order staying enforcement of judgment

Bond

Proposed judgment by Herbert H. Fuller, Deputy Attorney General on behalf of defendants

Proposed judgment by Kenneth A. MacDonald, on behalf of plaintiffs

III

The following questions are presented by this appeal:

A. Whether two enactments, Chapter 103, Laws of Washington 1931 and Chapter 377, Laws of Washington 1955, on their faces and as they have been sought to be applied to appellants, and to others similarly situated, are unconstitutional in that they are repugnant to the Constitution of the United States of America in the following respects:

1. By violating the due process clause of the Fourteenth Amendment and through it, the First Amendment to the United States Constitution in abridging the consti-

tutionality protected freedoms of religion, speech and conscience, association, assembly, and academic freedom:

a) By infringing upon each and every one of the constitutionally protected freedoms without an evidentiary showing anywhere in the record that the state possesses a subordinating regulatory interest, which is compelling, or a showing herein of a need for the state to protect itself from a substantial danger, be that danger clear, present, or otherwise, existing by reason of the current or past employment at the University of Washington of advocates of the proscribed doctrines, or by the employ- [fol. 292] ment of those persons who refuse or fail to promote "by precept and example" the doctrines required by the 1931 statute, or by the employment of appellants, and others similarly situated, who for the reason of fear of possible recrimination, and for the added reasons of conscience, belief in academic freedom and constitutional liberty, refuse to sign the declarations demanded of them, that they do not so advocate or associate, or that they will so promote the state approved doctrines;

b) By infringing upon each and every one of the constitutionally protected freedoms, particularly academic freedom, through the imposition of unconstitutional conditions upon the continued enjoyment of employment, or future employment at the University of Washington by requiring that appellants and other similarly situated relinquish such constitutionally protected rights and freedoms as a condition precedent for continued employment at the University of Washington, where, as in this case, the evidence and record is barren of any showing by the state of any danger which the state could properly abate and which would justify the state's demand for an invasion and consequent relinquishment of said rights, and which would justify the imposition of conditions which are incompatible with the conditions necessary for an atmosphere of free inquiry and independent thought essential and necessary for realization of academic liberty at the University of Washington.

c) By abridging each and every one of the constitutionally protected freedoms, particularly academic freedom, through the imposition of prior restraints upon appellants and in language which is fluid, vague, shifting, speculative and uncertain, and through sanctions, including the threats of discharge from their employment, guilt, infamy, scorn, disloyalty, a finding of unfitness for employment, and prosecutions for subversion and/or perjury, thereby forcing appellants, and others similarly situated, to restrict their areas of constitutionally protected freedom, and where the [fol. 293] herein described prior restraints are unnecessary because two available and adequate alternative procedures currently exist and are available to the University of Washington, each such alternative being designed for a selective approach to this area rather than the blanket attack on constitutional freedoms curtailed by the enactments here in question;

d) By infringing upon the constitutionally protected freedoms from the establishment of religion and/or abridging the free exercise thereof and freedom of conscience, through the necessary operation and compulsion of these enactments which function in an automatic and summary manner without affording appellant employees any opportunity to decline participation in the state prescribed ritual and without affording a hearing at which a refusal to participate could be explained, defended, or justified;

e) By infringing upon each and every one of the constitutionally protected freedoms and due process of law, through statutory use of indefinite and vague standards, not susceptible of objective measurement, and which are so ambiguous, fluid and shifting that necessarily men of ordinary capacities (including appellants), at their peril, must guess as to the meanings of these standards and are forced to speculate as to the nature of penal, and other, laws that might be applied to them, thereby denying reasonable advance notice of the circumscribed areas of proscribed speech and association, subverting the presumption of innocence and shifting the burden of proof.

f) By infringing upon each and every one of the constitutionally protected freedoms, and denying due process of law, because these enactments function in an arbitrary and discriminatory manner being summary and automatic, and in doing so employ fluid, vague and indefinite standards thereby deterring the enjoyment of constitutionally protected freedoms without affording appellants their constitutionally protected rights, (1) to a reasonable notice of charges, (2) to a hearing, (3) to an opportunity to cross-examine wit- [fol. 294] nesses supporting charges against them, (4) to an opportunity to present witnesses on one's own behalf, (5) to an opportunity to be represented by counsel, (6) to the presumption of innocence, (7) to have the accusing party carry the burden of proof, and (8) to avail themselves of the protections afforded by the rules of evidence.

2. By violating the due process clause of the Fourteenth Amendment, and through it the incorporated privilege against self-incrimination found in the Fifth Amendment, in abridging these constitutionally protected freedoms through the imposition upon appellants of a statutory requirement that appellants, and others similarly situated as a condition of continued employment, gave evidence that may incriminate them and otherwise bear witness against themselves.

3. By violating Article I, Section 10, Clause 1 of the Constitution of the United States, in that said enactments are Bills of Attainder, constituting legislative infliction of pains, penalties, and punishment by conclusively presuming guilt, infamy, disloyalty and unfitness for employment at the University of Washington, said legislative infliction of punishment being made against appellants, and others similarly situated, without affording them their rights to trial or hearing, right to accusation, confrontation and cross-examination, or assistance of counsel, thus necessarily subverting the presumption of innocence, shifting the burden of proof, and altering the rules of evidence.

4. By violating Article I, Section 10 of the Constitution of the United States because said two statutes operate summarily and automatically, without notice or hearing termi-

nate and otherwise impair all teaching contracts and deny their further renewals to any and all members of the University of Washington teaching faculty, aliens and citizens alike, whether tenured or non-tenured, the faculty members otherwise being fully qualified, and said impairment of contract being based on the sole ground that appellants [fol. 295] and others similarly situated persistently refused when requested to execute oaths requiring, *inter alia*, that they subscribe to the disclaimers which are mandatorily required by Chapter 377, Laws of Washington 1955, as a condition of continued employment, or that they ". . . will by precept and example promote respect for the flag and the institutions of the United States of America and the State of Washington, reverence for law and order and undivided allegiance to the government of the United States".

5. By violating the exclusively vested federal power over foreign affairs and the supremacy clause of Article VI of the Constitution of the United States in attempting to regulate and restrict that sedition directed against the Government of the United States, and not being strictly confined to that sedition directed against the State of Washington, thereby impinging upon a field entirely within the province of the federal government, and which the President and Congress of the United States, by their exclusive powers as vested by the Constitution and by Congressional enactments, have preempted and wholly occupied.

B. Questions relating to Chapter 103, Laws of Washington, 1931.

1. Whether the District Court after determining that Section 4 of the 1931 Act was clear and unambiguous, and after determining that "there can be little doubt that dismissal or ineligibility must necessarily and automatically result from refusal to sign the oath," properly refused to enter a declaratory judgment and permanent injunction as to Section 4 of the enactment, inasmuch as it clearly invades and abridges constitutionally protected freedoms.

2. Whether the District Court, after determining that one section of the 1931 Act raises substantial constitutional

issues, properly refused to render a declaratory judgment upon the remaining provisions of the 1931 enactment, prior [fol. 296] to its actual enforcement, solely on the ground that the record fails to show that any appellant had "suffered actual injury by reason of the application of the oath of allegiance statute (Chapter 103, Laws of 1931)."

3. Whether the legislature of the State of Washington possesses constitutional power and authority to disqualify absolutely from the profession of teaching in any school, private or public, an otherwise fully qualified citizen of the United States of America on the sole ground that he has refused, when requested, to testify that, *inter alia*, he ". . . will by precept and example promote respect for the flag and the institutions of the United States of America and the State of Washington, reverence for law and order and undivided allegiance to the government of the United States".

4. Whether the lower court properly held that all alien appellants, and others similarly situated, fail to present the requisite interest necessary to challenge the constitutional validity of the 1931 statute on the sole ground, contradicted by an express stipulation and exhibit in the record to the contrary, that the alleged future intent of the administering state officers is to violate their statutorily imposed duties and to apply said statute unevenly, differentiating between aliens and citizens, by altering for aliens the prescribed statutory wording of the oath.

5. Whether the 1931 enactment is repugnant to the Constitution of the United States by violating the equal protection clause of the Fourteenth Amendment to the United States Constitution in arbitrarily requiring that said oaths be executed by the citizen faculty members of the University of Washington of whom there is less need for said oaths, if any need exists at all, and not requiring said oaths from the alien faculty members who are similarly situated and of whom there would appear to be greater need for said oaths, if any need be existing.

[fol. 297] C. Question Regarding Standing of Student Appellants.

1. An additional question is whether the lower court properly dismissed four students of the University of Washington, non-employees, plaintiffs below, solely on the ground that they lack the requisite interest to challenge the validity of the oath-requiring statutes here in question when their challenge to said enactments is taken on the ground of their rights to academic freedom and this action adjudicates those constitutional rights and the conditions for realizing learning freedom at the University of Washington.

Kenneth A. MacDonald, 1410 Hoge Building, Seattle 4, Washington; Arval A. Morris, Condon Hall, University of Washington, Seattle, Washington, Attorneys for appellants Lawrence W. Baggett, Z. W. Birnbaum, Joost E. Businger, Isabel S. Caro, Giovanni Costigan, J. G. Dash, William S. Dawson, David M. Eaves, John M. Emlen, T. Saunders English, Victor Erlich, Robert G. Fleagle, Ronald Geballe, Patrick T. Goldsworthy, Milton P. Gordon, Alvin D. Greenberg, Robert E. Greengo, Gordon Griffiths, W. Mary Griffiths, Isaac Halpern, Arnold Hanson, W. Stull Holt, Abraham C. Keller, Arthur L. Kobler, Scott Lytle, Robert W. MacDonald, D. F. Magee, Henry W. Maier, William H. Matchett, Karl P. Mauzey, Trevor J. McMinn, Irving Milowe, Rhoads Murphey, David S. Newman, Howard Nostrand, Gordon H. Orians, Simon Ottenberg, Jack R. Parsons, Eugene C. Pizzuto, Melvin Rader, Kenneth Eyre Read, Max Savelle, Annick Smith, C. A. Valentine, Leslie Warner, James B. Watson, Walter B. Watson, Philip E. Wilcox, Theodore W. Wilcox, William B. Woolf, Paul Dietrichson, Jon Bridgman, Boris A. Jacobsohn, Patricia J. Keller, Lucille L. Curtis, Albert Nujenhuis, Richard Morrill, Willis Konick, Robert G. Clarke, and Theodore Lane.

[fol. 298] Certificate of service (omitted in printing).
Acknowledgment of service (omitted in printing).

[fol. 299] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

NORTHERN DIVISION

No. 5598

LAWRENCE W. BAGGETT, Z. W. BIRNBAUM, JOOST E. BUSINGER, ISABEL S. CARO, GIOVANNI COSTIGAN, J. G. DASH, WILLIAM A. DAWSON, DAVID M. EAVES, JOHN M. EMLEN, T. SAUNDERS ENGLISH, VICTOR ERLICH, ROBERT G. FLEAGLE, RONALD GEBALLE, PATRICK T. GOLDSWORTHY, MILTON P. GORDON, ALVIN D. GREENBERG, ROBERT E. GREENGO, GORDON GRIFFITHS, W. MARY GRIFFITHS, ISAAC HALPERN, ARNOLD HANSON, W. STULL HOLT, ABRAHAM C. KELLER, ARTHUR L. KOBLER, SCOTT LYTLE, ROBERT W. MACDONALD, D. F. MAGEE, HENRY W. MAIER, WILLIAM H. MATCHETT, KARL P. MAUZEY, TREVOR J. MCMINN, IRVING MILOWE, RHOADS MURPHEY, DAVID S. NEWMAN, HOWARD NOSTRAND, GORDON H. ORIANS, SIMON OTTENBERG, JACK R. PARSONS, EUGENE C. PIZZUTO, MELVIN RADER, KENNETH EYRE READ, MAX SAVELLE, ANNICK SMITH, C. A. VALENTINE, LESLIE WARNER, JAMES B. WATSON, WALTER B. WATSON, PHILIP F. WILCOX, THEODORE W. WILCOX, WILLIAM B. WOOLE, PAUL DIETRICHSON, JON BRIDGMAN, BORIS A. JACOBSOHN, PATRICIA J. KELLER, LUCILLE L. CURTIS, ALBERT NUJENHUIS, RICHARD MORRILL, WILLIS KONICK, ROBERT G. CLARKE, THEODORE LANE, Plaintiffs,

vs.

DOROTHY BULLITT, JOSEPH DRUMHELLER, JOHN L. KING, HERBERT S. LITTLE, ALBERT MURPHY, JOHN J. O'CONNELL, CHARLES E. ODEGAARD, HAROLD S. SHEFELMAN, ROBERT J. WILLIS, Defendants.

PROPOSED JUDGMENT AND ORDER—Lodged February 19, 1963

Pursuant to a memorandum opinion dated February 9, 1963, this Court:

(1) Declares that Chapter 377, Laws of 1955, State of Washington, does not violate Article 1, Section 10, the First Amendment, the Fifth Amendment, or the Fourteenth Amendment of the United States Constitution, that the subject matter covered by this statute has not been preempted by Congress, and adjudges this statute constitutional;

(2) Declines to render a declaratory judgment as to the constitutionality of Chapter 103, Laws of 1931, in advance of an authoritative interpretation by the Washington Supreme Court;

[fol. 300] (3) Dismisses the plaintiffs' complaint with prejudice;

(4) Dissolves the preliminary injunction now in effect which started as a restraining order on June 25, 1962, and was continued as a preliminary injunction on July 13, 1962;

(5) Awards the defendants their costs.

Dated this ..... day of ....., 1963.

....., United States Circuit Judge;
....., United States District Judge;
....., United States District Judge.

Presented by John J. O'Connell, Attorney General; Herbert H. Fuller, Deputy Attorney General, of Attorneys for Defendants.

[fol. 301] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
NORTHERN DIVISION
No. 5598

LAWRENCE W. BAGGETT, et al., Plaintiffs,

vs.

DOROTHY BULLITT, et al., Defendants.

PROPOSED JUDGMENT DENYING COMPLAINT FOR DECLARATORY JUDGMENT AS TO A STATUTE OF THE STATE OF WASHINGTON AND JUDGMENT DECLINING TO RENDER DECLARATORY JUDGMENT AS TO ANOTHER STATUTE OF THE STATE OF WASHINGTON—Lodged February 19, 1963

This class action asking this Court to declare unconstitutional Chapter 377, Laws of 1955 of the State of Washington, which amended Chapter 254, Laws of 1951, and Chapter 103, Laws of 1931 of the State of Washington, and seeking the issuance of a permanent injunction against their enforcement against plaintiffs and other similarly situated on the grounds that such statutes are violative of Article 1, section 10 and of the First, Fifth and Fourteenth Amendments to the Constitution of the United States, having regularly come on October 22, 1962, before a three judge District Court convened pursuant to the mandate of 28 USC sections 2281 and 2284 following pre-trial conferences and the preparation and filing of an extensive pre-trial order which included stipulations of fact relating to the background and academic setting of the controversy, statements of persons therein and exhibits attached thereto being admitted without objection, no testimony having been presented in open Court, and all parties represented by counsel; this Court having a jurisdiction under 28 USC sections 1331 and 1343 (3), and 42 USC section 1983, and the Court

having prepared and filed a memorandum opinion herein; the Court being fully advised, including the fact that dismissal or ineligibility must necessarily automatically result from refusal of a teacher to sign the oath prescribed by Chapter 103, Laws of 1931, it is the final order of this Court as follows:

[fol. 302] It Is Ordered that Chapter 377, Laws of 1955, State of Washington is not invalid on its face or in the light of facts of record, and

It Is Further Ordered that no declaratory judgment be rendered by this Court as to the constitutionality of Chapter 103, Laws of 1931, in the absence of an authorative construction of that statute by the Supreme Court of the State of Washington, and

It Is Further Orderad that the alien plaintiffs have no standing to challenge the constitutional validity of a statute with respect to an application thereof which has never been enforced by the State of Washington, and

It Is Further Ordered that student plaintiffs in this action have no standing to challenge either of the statutes in question, and

It Is Further Ordered that no permanent injunction issued by this Court against the enforcement of Chapter 373, Laws of 1955 and Chapter 103, Laws of 1951 of the State of Washington, and

It Is Further Ordered that the preliminary injunction now in effect herein be dissolved, subject however, to any stay for the enforcement of this judgment to be entered by this Court pending an appeal to the Supreme Court of the United States.

Dated this ..... day of February, 1963.

....., ..., ...

Presented by: Kenneth A. MacDonald, Of Counsel for Plaintiffs.

Proof of service (omitted in printing).

[fol. 302a] Clerk's Certificate to foregoing transcript (omitted in printing).

CLERK'S NOTE

[fols. 303-305] Plaintiffs' Exhibits Nos. 1 and 2 "Oath Form A and Oath Form B" are omitted from the record here as they appear on printed pages 37 and 40, side folios 42 and 44 supra.

[fol. 307]

IN UNITED STATES DISTRICT COURT
UNIVERSITY OF WASHINGTON

PLAINTIFFS' EXHIBIT NO. 6

Office of the President

Seattle 5

February 6, 1959

Memorandum to the Deans

Subject: Documentation for Recommendations for Promotions or Tenure

I am enclosing the memorandum on Documentation for Recommendations for Promotions or Tenure as approved in the recent meeting of the Board of Deans.

I am requesting the deans of departmentalized colleges to take appropriate steps to bring to the attention of their executive officers the procedures outlined. Deans of non-departmentalized schools or colleges should coalesce directly into the form of their recommendation the material requested of executive officers along with that requested of deans.

/s/ CHARLES E. ODEGAARD

Charles E. Odegaard
President

CEO:rk

Enclosure

[fol. 308]

February 4, 1959

DOCUMENTATION FOR RECOMMENDATIONS FOR PROMOTIONS OR TENURE

In submitting to the President's Office a recommendation for promotion in rank or the granting of tenure, the dean of the school or college is requested to present a detailed documentation of the recommendation. The primary data would originate from the department.

Executive officers are enjoined to give careful attention to all phases of the candidate's service to the College and the University. Characteristic types of contributions to the University are described in the following terms under three headings:

Teaching. An essential qualification for appointment or promotion is the ability to teach, whether at the undergraduate or the graduate level. Some of the elements to be evaluated are personal and intellectual integrity, experience, knowledge of subject matter, skill in presentation, interest in students, ability to stimulate youthful minds, capacity for cooperation, and enthusiastic devotion to teaching. The responsibility of the teacher as a guide and friend properly extends beyond the walls of the classroom into other phases of the life of the student as a member of the University community. It also involves the duty of initiating and improving educational methods both within and outside his department.

Research. All members of the faculties must be persons of scholarly ability and attainments. Their qualifications are to be evaluated on the quality of their published and other creative work, the range and variety of their intellectual interests, their success in training graduate and professional students in scholarly methods, and their participation and leadership in professional associations and in the editing of professional journals. Attainment may be in the realm of scholarly investigation in such fields as the biological and physical sciences, the social sciences, and the humanities; in the realm of constructive contribu-

tions in professional fields such as engineering, forestry, medicine, dentistry, public health, and business; or in the realm of the creative arts in such fields as music, design, sculpture, painting, drama, and literature.

Service. The scope of the University's activities makes it necessary for members of the staff to engage in many activities outside of the fields of teaching and research. These may include participation in committee work and other administrative tasks, counseling, clinical duties, and special training programs. The University also expects many of its staff to render extramural services to schools, to industry, to local, state, and national agencies, and to the public at large.

In arriving at recommendations for promotion executive officers are requested to study the whole record of candidates. To warrant recommendation for promotion in the professorial ranks, a candidate must have shown superior ability in at least one phase of his activities, ability of such an order as to command obvious respect from his colleagues, and substantial contribution in other phases. The two qualifications of teaching and research must remain unequivocally the central functions of the faculty, but administrative and extramural services must also be recognized.

[fol. 309] The factors with reference to promotion thus far mentioned have to do with the qualifications of the candidate as an individual and may be regarded as the intrinsic factors. Consideration must be given to the way in which the candidate will fit into the present and foreseeable future of the department. Does there appear to be a place for a candidate with these special interests? Is there a reasonable balance among the skills and interests in the department? Will a given candidate help to bring the department into balance or throw it out of balance? It does happen that individuals whose performance would otherwise warrant promotion should not, and cannot, be promoted here because the peculiar nature of staff requirements in the department makes it undesirable to assure advancement. The particular bent which a young or recently arrived member of the faculty will take frequently

cannot be determined for several years. It is incumbent upon departments, schools, and colleges, however, to scrutinize closely the developing abilities especially of younger faculty members; and if it should appear that a given man is developing in a direction which for departmental reasons would tend to limit possibilities of promotion, he should be so advised and told that it would be wise to seek other employment.

In the interest of uniformity you are requested to submit your recommendations for promotion in strict accordance with the accompanying topical outline.

The form of the documentation would be as follows:

Dean's Letter to the President:

(a) If the procedure followed in evaluating the candidate varies from that prescribed in the Code, an explanation of reasons for the altered process;

(b) Critical evaluation at the school or college level of services, whether in teaching, research, university or college assignments or service to the state which have led to the recommendation;

(c) The candidate's accomplishments in the major university functions as described in the Faculty Code (Section 2432) since his last promotion or initial appointment;

(d) When promotion or tenure is recommended, are there any stated or implied commitments for the development of library, laboratory, or other special facilities which will be needed to carry on the work of the nominee?

Memorandum to departments would be as follows:

The departmental recommendation for promotion or tenure should be in the following form and cover the items listed:

(1) Description and critical evaluation of (1) *Teaching*, (2) *Research*, and (3) *Service* to the college, university, or the state, as covered in the statement of major university functions (Faculty Code, Section 2432).

[fol. 310] (2) A statement of special competence which the nominee has developed, together with copies of the letters or other evidence to be used by the school or college in judging his standing, reputation, and scholarly achievements;

(3) A complete and precise description of the role the nominee has in the departmental or school curriculum at the undergraduate *and* graduate level, and his place in its future development;

(4) A description of the program of research or creative activity the nominee is following and plans for the future;

(5) The departmental vote on the recommendation;

(6) If a previous recommendation for promotion or tenure has been denied in the past, a summary of the changes in the nominee's status, in respect to items (1) through (5) above, since that time should be summarized.

[fol. 311] IN UNITED STATES DISTRICT COURT

PLAINTIFFS' EXHIBIT No. 7

FOR RELEASE: Friday, November 7, 1958
After 4 p.m., P.S.T.

INAUGURAL ADDRESS*

Charles E. Odegaard

President

University of Washington

Mr. Shefelman and members of the Board of Regents, Your Excellency Governor Rosellini, Honorable members of the Legislature, delegates of sister institutions and of learned and scientific societies, distinguished guests, Dr.

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* Delivered November 7, 1958, at ceremonies inaugurating Dr. Odegaard as president of the University of Washington, Seattle.

Schmitz, Faculty, Students, Alumni, and Friends of the University of Washington:

It is an honor for the University of Washington to have President Pusey of Harvard University participate in these inaugural ceremonies by delivering this fine and thoughtful installation address. It is a source of great pleasure to me that he is present on this platform on a day that has very special personal meaning for me. I am reminded of the first time I saw Doctor Pusey after he had assumed the presidency of Harvard University. It was six months or so later that I visited him in Cambridge. After chatting in his office in old Massachusetts Hall, Doctor Pusey walked me down a short corridor to a smallish room, gracefully furnished in eighteenth century style. A fine portrait of Benjamin Franklin looked wisely and beneficently down on the principal piece of furniture in the room, an oval mahogany table surrounded by about eight chairs. Doctor Pusey informed me that this was the meeting room of the Harvard Corporation, which consists of the President, the Treasurer and the five Fellows of Harvard University. He said that he had encountered remarkable devotion in the eminent men of affairs who leave their regular pursuits to meet every other Monday in this room to consider with him the welfare and government of Harvard University. He had found that in the estimation of such men there was no honor or public service in their part of the country which could be offered or obtained which could equal the prestigious invitation to become a member of the Harvard Corporation; for this is, he said, the board room of the oldest corporation in continuous existence in the territory of the United States. Dr. Pusey added characteristically, it is a very humbling thing to inherit the responsibilities of President of the University.

Indeed, one should stand in awe of universities, great and powerful men, kings and princes, popes and peers, presidents and governors, most in wisdom but some in fear, have held a decent respect for the influence—the ultimate leadership—which universities have exerted over the past eight hundred years. There must be something special about universities, for them to have this extraordinary survival

power, for them to retain their identity and continuity over all these centuries of conflict and change in Europe; to be carried forth to blossom in the new world from the rocky shores of New England to these forested hills of Puget Sound; or to be injected as foreign imports from the west into the colonial territories of Asia and Africa only to [fol. 312] survive the demise of the imperial authority as those former colonies have become sovereign powers.

Social inventions have come and gone over the centuries. Few have had the resiliency of this medieval invention, the University. For over eight hundred years universities have had their ups and downs, only to emerge after each languishment more vigorous and influential than before.

What then is this durable thing, a university? This question has been asked many times before, especially, and appropriately so, on occasions such as this. The most frequent answer, I suppose, has been "a community of scholars." Good words meaningful words, repeated often, sometimes slip into triteness, lose their savor, and are shrugged off with a kind of bored indifference. These words, this phrase, "community of scholars," actually had a rich significance in the very beginning of universities and it has continuing relevance in our own day. It still warrants our attention.

There were scholars, of course, well before the Middle Ages. The word itself is of Latin origin, and goes back to the Romans. The force of the phrase stems, however, from the word "community," community of scholars. The invention of the Middle Ages lies in the establishment of a *communitas*, something shared in common, a community of interest, among scholars. In effect, what these medieval scholars did was to bring individuals who had previously functioned largely in isolation into a group with a special identity; they formed with their members a single body, or as we would say today, they established a corporation. Indeed, the word university, *universitas*, was in origin nothing but a synonym for denoting this same process of incorporation. Its very etymology implies *turning* a group of individuals into *one* body. Over time, the use of the word *university* was restricted to one particular kind of corporation, to the community of scholars, to a university as we use the word today.

Most of the actual steps in the development of a university in the twelfth and thirteenth centuries are shrouded in obscurity, and historians argue over the dates at which given institutions may be said to have been established. Understandings among individual scholars in Paris, for example, and the outward recognition of these by others, emerge successively and not all at once. The general direction of development is clear in any case. The progression is in the direction away from the individualistic tutor to what might be called the group practice of scholarly teaching with the adoption of regulations affecting the government of the affairs of the community of scholars, the status of the master scholars or teachers or professors, the status of the student scholars, and the prescription of courses of instruction.

Finally there was the matter of the degree or license. You know that the phrase "community of scholars" is used with a connotation which embraces both the faculty and the students, the old learners, as it were, and the new learners. This was quite appropriate in the medieval setting. The older scholars taught the younger scholars in a particular way. In accordance with the technology of the time and the characteristics of the bookish learned traditions of that day, the teachers lectured; that is, they read passages from the costly manuscript books which contained the accumulated learning of the past and then brought in [fol. 313] more recent or contemporary insights by commenting upon the texts. A lecture was thus a combination of reading out loud and of talking when the students had imbibed a fair measure of this learning by listening to the prescribed course of lectures and through disputation, that is discussion largely among themselves, had cut their own teeth on the substance, they might be ready to try the examinations. They would appear before a board composed of teachers or professors and there be quizzed as to their knowledge, and if approved, be given permission to proceed to the final demonstration of proficiency, namely to be called upon to do what the master or professor characteristically did himself as a learned man; that is, he gave a lecture on a learned topic. This beginning (*inceptio*) of the practice of the master or teacher is the origin of the com-

mencement address, which in its proper ancient form was delivered by the graduating students.

At the same time, the successful candidate would, be a ceremonial gesture, be admitted to the grade of, the status of, the degree of a bachelor or master. The routine granting of a diploma is a fairly late form. In this country at Harvard, it was not until 1813 that all graduates received a diploma as a matter of course. Doctor Pusey's predecessor, at the first Harvard commencement in 1642, following the rhetorical performances of the graduating students, their commencing lectures, turned to each and said:

> "I admit thee to the first degree in Arts . . . according to the custom of the universities in England. And I hand thee this book, together with the powers to lecture publicly in any one of the arts which thou hast studied, whensoever thou shalt have been called to that office."

Here as a proof of admittance to higher learning there was still linked the book, the text, and the right to lecture upon it. The book, was of course, purely symbolic; and in all honesty, I must reveal, Doctor Pusey, that your predecessor appears to have been an Indian giver and to have taken back these books immediately. Harvard men do not seem subsequently to have held this ungenerosity against their alma mater. Indeed, they have returned the gift many fold in their magnificent contributions to the Harvard libraries.

There are still, in my judgment, important meanings in this medievalism for our time. Scholars, teachers possessed of the most advanced knowledge of their time, professors as we would say today, had existed before. Such men, by very definition, must be highly individualistic self-starters, impelled by their own curiosity to seek knowledge, great lovers of that elusive mistress, truth. They can be recognized and given opportunities for pursuing their work, appealed to for various causes, but hardly directed in their professional work as scholars. Who could have told Einstein what to do next? But they can be brought together by persuasion to work in a common enterprise in a way which makes the whole greater than the sum of the several parts.

What the Middle Ages established as a beginning was that such men, by grouping themselves together, by establishing the group practice of scholarship through the creation of a university, could enlarge greatly their own capacity for learning and for teaching. Individual scholars have made contributions to human history, but the establishment of the community of scholars has placed the learned and scientific traditions of mankind on a far firmer footing. [fol. 314] It has made available systematic education of the younger generation at the higher levels so that each successive generation could build more solidly and more quickly upon the work of its predecessors. Scholars themselves, to deal with the present frontiers of knowledge, now require facilities in libraries and laboratories which can only be provided through a collective enterprise. Through participation in the community of the university, they can advance knowledge far more rapidly than they could individually in isolation.

The powers that be even in the thirteenth century already came to respect the community of scholars through papal and royal charters and privileges which guaranteed an autonomous life for the merging universities. The tradition of university autonomy has come down into our own American history in which it is found that universities usually have been accorded a very special position. Education itself, from highest to lowest levels, was exempted by the founding fathers from federal control. Even at the state level it was protected through self denying constitutions and statutes of the several states from strong statewide controls. Basic responsibility for elementary and secondary education was delegated largely to local school boards which in turn have been kept separate from other branches of local government such as the cities and towns. At the level of higher education, universities under private auspices were encouraged and actually patronized under various provisions of the law which granted them privileges and large immunities. And when the states established universities under public auspices, they were given a substantial measure of autonomy by a variety of expedients including in some states even constitutional status to limit control from other branches of state government. They have not

been regarded as ordinary departments of state government under the control of the executive branch or as subject to conventional policy management by the legislatures.

This tradition of relatively great autonomy for universities in relation to government, stemming from medieval concepts, should not be dismissed as an archaic remain. There are continuing reasons for maintaining it. A degree of vigilance is needed just now in the United States because there has been a movement among some administrators in state government circles in the name of what they construe as efficiency to try to assimilate universities, at least the state universities, into just another branch of state government. Such a view is out of touch with our basic tradition and law, as I have indicated, and perhaps even more importantly, with the wisdom of the case.

Autonomy for universities is not a matter of special privilege for professors, presidents, or regents. It is a condition for the efficient performance of the tasks of the university. While the university might have been an invention in the first instance of scholars, it quickly came to be seen by others as a kind of insurance policy which society could take out as a guarantee of a better future. It is the special business of universities to encourage a second look at men and matter. They need maneuvering room for their continuing reanalysis of the universe and what is contained therein. They need a large amount of freedom in determining their own program in research and in teaching, for they alone contain the men truly competent to make the necessary judgments. The autonomy granted them is an act of faith by society in the kinds of individuals who pursue the scholarly life of teaching and research, and who are gathered together in a great university. Men in past generations have felt that this act of faith paid off [fol. 315] well enough that through their repeated acts of support universities have been enabled to persist at their task to the point that our oldest corporation still in business in the United States is a university. There are many indications that men still have this confidence today in universities.

I believe that you will agree that the need for the contributions of universities to our troubled society is now more evident than ever. This is no time then to diminish

their capacity to play their peculiar role in society by the misguided imposition of bureaucratic controls from outside persons not equipped to make the highly specialized kinds of judgment required in a university. There is little wisdom —and a great deal of harm—in the application of standards of efficiency which are not appropriate to the functions of universities, however appropriate they might be for other functions.

If one is indeed to espouse the university in these terms, he must face with humility the charge which is placed upon me today on behalf of the Board of Regents of the University of Washington. The task is large, the responsibility to the University and to society is great. The faculty has already brought distinction to this University and desires to see still greater distinction attained in rendering service. I promise the faculty that I shall try to sense with imagination what is needed in tools for scholarship, in the means of teaching and research, and to find ways by which the faculty may be more adequately, more equitably, supported. I promise no less, as a colleague, to seek to detect ways to improve our own awareness of our common concerns in teaching and research; and to devise channels through which the intellectual energy of the faculty may flow toward the further advancement of knowledge and the improvement of curriculums and teaching.

I promise the younger scholars, the students, that I shall try to find ways which will permit their masters to have that more intimate contact with them on scholarly matters which true teachers always desire so that out of this association there may emerge that love of scholarship which can attend the university educated man all the days of his life. Even though the graduating student may follow a career different from that of his teaching masters who admitted him to the degree or grade of bachelor or master or doctor, he should have acquired from his professors stimulation for the maintenance of curiosity, encouragement of the habit of study, and the experience of disciplined thinking. The nourishing care of alma mater must stretch the muscles of the student's mind at the risk of an occasional Charley horse, but it will be no less loving for all that, and no less in his best interest.

To the alumni who have loved this university, I promise to do what I can do to enlarge still more the basis for their legitimate pride in the institution. I promise also to turn to the alumni increasingly for that extra help in moral and material support which every university needs now from its sons and daughters, its past beneficiaries, if it is to measure up to the mighty task it faces in trying to provide adequate opportunities for the education of their sons and daughters.

To our sister institutions in higher education, so many of whom have graced this occasion with their representatives present here today, I promise to try to be a good neighbor and companion, recognizing our different areas of service and our common ground and need of mutual support.

[fol. 316] To His Excellency, the Governor, and the Honorable members of the Legislature of the State of Washington, I promise advocacy of the realistic needs of the University as it strives to be nothing less than a great university, serving greatly the people of the state as a human monument fit to match the inspiring mountains and distance perspectives which nature has lavished upon us here, a leader among institutions and not a follower, a pioneer among pioneers as great universities must by definition ever strive to be.

I reread recently *The Aims of Education* of Alfred North Whitehead in the paperback edition. It contains a brief but wonderful appreciation of him by Mr. Justice Frankfurter. The mere reading of it caused a warm feeling to flow over me, for I was one of that generation of students privileged to be invited into those wonderful Sunday evening coffee and conversation sessions in the Whitehead's apartment overlooking the Charles River. The breadth of the man, the depth of insight, that humility coupled with courage—yes, and gentle humor—in facing the awesome mysteries of the universe which surrounds us and which open up like a chasm within us radiated through his conversation as well as through his lectures. So too did his firm belief in man's use of reason, however blunted it might be, before the profound complexities of the world, and his

conviction that the universities had to be the guardians and the caretakers of this intellectual civilization.

Mr. Frankfurter quotes Professor Whitehead as follows:

> "The Aegean Coastline had its chance and made use of it; Italy had its chance and made use of it; France, England, Germany had their chance and made use of it. Today the Eastern American states have their chance. What use will they make of it? That question has two answers. Once Babylon had its chance, and produced the Tower of Babel. The University of Paris fashioned the intellect of the Middle Ages."

The Eastern American states, he says, have their chance. So indeed they do, and they have done well by it. The splendid example, to cite only one, which Harvard presents to the world today, Dr. Pusey, we unhesitantly and gratefully acknowledge.

Professor Whitehead voyaged far in his own lifetime. He liked adventures in living as well as in ideas. His historical sense taught him how the torch of learning had passed from Greece to Rome to Paris to modern Germany, and England, and to the Eastern States of the United States. He himself helped in this westward pilgrimage of learning by moving from the Old Cambridge in England to the New Cambridge in Massachusetts. If he were alive today, pondering on these matters a quarter century later, he would not have been surprised, I believe, by the thought that the Western States might have their chance too.

But he would have noted a change. The westward movement has now gone virtually full circle to meet the Levant, to flow into the lands of the rising sun; and there sits in our consciousness the realization that we are all now caught up in this global world in a troubled time. More is demanded than that the torch be tended now here, now there, as it is passed along. We are all in this world together and it is imperative that the torches of learning be held aloft and tended in many places. In purely national terms it is not enough to have a handful of great universities for [fol. 317] a country of 175,000,000, and those mostly in the East. If this intellectual civilization which Whitehead

prized is to survive and prosper in these United States, there must be a string of creative, I repeat, creative universities from East to West and from North to South. The Western States must do their part in accepting and building nothing but the best.

Let us be grateful then for models elsewhere. May it be given to us to recognize the best when we see it wherever we see it, to strive to emulate it here ourselves, and to do our share in fraternal affection in work in which our universities will ultimately succeed or fail together. We need not fear rivalry. We have far more reason to fear the inadequacy of the efforts of all our universities, the young in years in company with the ancient and venerable, in building around our civilization that wall of intelligence and understanding needed to restrain the eroding forces of ignorance and brutishness which could engulf us all. All of us, Eastern and Western, in and out of universities, must work in the hope that the American people will be enabled to escape the curse which now threatens modern man, the awesome great sentence which was noted by Professor Whitehead in the following words:

> "In the conditions of modern life the rule is absolute, the race which does not value trained intelligence is doomed. Not all your heroism, not all your social charm, not all your wit, not all your victories on land or at sea, can move back the finger of fate. To-day we maintain ourselves. To-morrow science will have moved forward yet one more step, and there will be no appeal from the judgment which will then be pronounced on the uneducated."

We must in the Western States take up still more the slack and not rely as much as in the past on what the Eastern States have provided if we are to give our sons and daughters their just due and to enable them and us to acquit ourselves of our fair share of responsibility in preventing all America from receding into the accursed land of the uneducated.

There is then a monumental task which faces us here in Washington and at the University of Washington. I know full well that I am but one of many who will serve the

University of Washington in these coming years. Each of us has his particular niche in a structure, the University, which far transcends us all. All these people dedicate themselves every day to her service that she may better serve mankind. I do not think it a poetic license to say that once again they are accepting this charge with me here today, grateful, as I am grateful, for the opportunity of service, humble before the responsibility but joyous in work which is pleasure, and hopeful that future generations will conclude that our efforts in our day were mostly on the side of making an understatement of Dr. Suzzallo's name for this institution, the University of a Thousand Years.

[fol. 318]

IN UNITED STATES DISTRICT COURT

PLAINTIFFS' EXHIBIT No. 8

University of Washington

INTERDEPARTMENTAL CORRESPONDENCE

Date January 23, 1962

To Professor Walter Watson
Department of Sociology
Smith Hall

FROM College of Arts and Sciences
Office of the Dean

Subject .....

Dear Professor Watson:

The Department of Sociology has recommended to me that your appointment as assistant professor be renewed for an additional period of three years, beginning with the academic year 1962-63. I am happy to endorse the department's request, and at the appropriate time I shall forward to the President my recommendation for your reappointment.

Please accept my best wishes for satisfaction and success in your work.

Sincerely yours,

/s/ Solomon Katz
Solomon Katz
Dean

SK:jv

cc: Professor Robert E. L. Faris

[fol. 319]

In United States District Court

Plaintiffs' Exhibit No. 9

University of Washington

INTERDEPARTMENTAL CORRESPONDENCE

Department
Sociology

January 30, 1962

Walter B. Watson
Thomson 301

Dear Walt:

You will shortly receive a note from the Dean's Office indicating that a renewal of your appointment for a specified three year period has been made. This notification is in accordance with the Faculty Code which requires that the Department recommend either continuation in this manner or termination of the appointment at an early time. Obviously the department recommended continuation to the Dean's Office and your appointment is therefore continued through the dates mentioned in the note.

Nothing in this letter precludes favorable changes, such as salary increases or even promotions, but it does mean

that the University will automatically extend your term as stated in the letter.

Sincerely yours,

/s/ Bob

Robert E. L. Faris
Executive Officer

gw

[fol. 320]

In United States District Court

Plaintiffs' Exhibit No. 10

Department of Mathematics

June 14, 1962

To: All Faculty, Graduate Assistants, and Staff:

The loyalty oath forms which must be signed according to state law are now available in Physics 245. According to regulations from the President's Office, these are to be signed and witnessed by a notary before October 1. A list of campus notaries whose services are free is available in our office. Please return the signed forms to the department office at your convenience.

Yours sincerely,

/s/ Carl B. Allendoerfer

Carl B. Allendoerfer
Chairman

[fol. 321]

IN UNITED STATES DISTRICT COURT

PLAINTIFFS' EXHIBIT No. 11

June 5, 1962.
Professor Ronald Geballe
Department of Physics

Dean Solomon Katz
College of Arts and Sciences

Dear Dean Katz:

A recent turn of events impels me to write you of my concern over an aspect of the Ilakovac appointment that I sent to you last week.

Shortly after I had prepared and sent you the Ilakovac material, I received the notice from the President's Office, dated May 28, 1962, but received later, informing the faculty and staff of the University that the 1955 loyalty oath now would be required. This requirement creates concern for the following reasons:

Our desire to invite Dr. Ilakovac is no different from the motivation for many such invitations in the academic community. A faculty vacancy is created when one of our permanent staff goes on leave. We seek about for a temporary replacement who will bring to us a scientific experience different from those already represented here, a record of productive and interesting research and a background that will assist us in meeting our responsibility for formal class instruction. These were the considerations that prompted our initial correspondence with Dr. Ilakovac some months ago.

The announcement respecting the oath places me in the embarrassing situation of having to inform Dr. Ilakovac, with whom we have negotiated openly and in good faith, and who is engaged in arranging his affairs in preparation for the visit, that a new element has suddenly been injected into the matter. He now will be faced with an oath that

might be impossible for him to sign for reasons totally irrelevant to the purpose and value of his visit.

An arbitrary alteration of terms always tends to reflect on the good name of a negotiator and in this case, the University will lose a little even if Dr. Ilakovac finds that he can sign the statement. If he cannot, the University is likely to lose considerably among the academic community. I realize that the oath is a statutory requirement that the Regents now are obliged to carry out. The timing of the Ilakovac case is unfortunate, whatever its other characteristics, but we cannot easily back out of it.

This same combination of circumstances leaves me in a quandry insofar as my own obligations respecting the oath are concerned. If the oath actually takes shape as quoted in the May 28 Notices, and were I to sign it, might not the forms which I have signed in connection with the Ilakovac appointment be used as a basis for a charge of perjury? [fol. 322] As far-fetched as it seems, we know that the recent past of our nation displays incidents of just this kind. How many other acts of this general nature have been committed by the faculty and the administration that might be construed as bases for perjury charges by some future investigator of subversive activities?

While some may have sincere and defensible grounds for objecting to the initial portion of the oath, many more will be affected by the second, disclaimer, part. The above paragraphs show how quickly a disclaimer oath can lead to a fear of personal jeopardy and thus to a very timid conduct of University affairs. I think there are additional reasons for believing disclaimer oaths to be harmful, but this one example is most striking.

Sincerely yours,

/s/ Ronald Geballe
Ronald Geballe
Chairman

RC:dj

[fol. 323]

IN UNITED STATES DISTRICT COURT

PLAINTIFFS' EXHIBIT No. 12

June 4, 1962

Kenneth E. Read, Chairman
Department of Anthropology
345 Savery

Dean Solomon Katz
College of Arts and Sciences
124 Thomson
Loyalty Oath

Dear Dean Katz:

I believe it is both proper and expedient that as chairman of the Department of Anthropology I express to you my concern for the effects which the requirements of the Loyalty Oath may have on our faculty next year. You know, of course, that we have made several new appointments commencing in September 1962. The individuals concerned are Professors Edward B. Harper, Raymond B. Fogelson and Luyse Kollnhofer (who is also an Austrian citizen). At the time when we were negotiating to secure the services of these scholars there was an injunction against the Loyalty Oath in the State of Washington which had not been determined. The individuals concerned were not advised that such an oath might be required of them as a condition of their employment by the University. It is entirely possible, therefore, that they have refused alternative offers, resigned from their present employment and have made arrangements to join us in the Fall whilst unaware of a condition which they are unwilling to accept. As a result they may encounter considerable hardship. It would seem honorable to advise them immediately that as matters now stand they will be required to file the signed oath by October 1st or relinquish the positions which they have accepted. On the other hand, prudence, and the best interests of the department seem to dictate delaying the issue as long as possible, at least until we have seen if there

will be a new attempt to challenge the constitutionality of the oath. If such litigation is unsuccessful, however, the latter procedure may simply compound the difficulties of the new members of our faculty, who thereby will have lost valuable time in seeking alternative positions.

My principal concern as the administrative head of the department must be to preserve as far as possible the continuity of our faculty and our academic programs. I am sure that you appreciate the difficulties we would face in attempting to find a replacement for any member of our faculty between now and the beginning of the next academic year. Accordingly I have decided that if I am required to confront new members of the department with the Loyalty Oath before any legal proceedings have been instituted in the courts, I shall give them the following counsel:

(a), that there is a possibility that legal proceedings to test the constitutionality of the oath will be instituted;

(b), that if they have any objections to signing such an oath they might consider it advisable to delay until the last possible moment, pending the possibility of a court injunction, but

(c), if they object to the oath and do not wish to place themselves in the difficult position which would result from unsuccessful court action, they should feel at liberty to advise me of their refusal to sign.

I am hopeful that legal action may be taken before it is necessary for me to confront new members of the faculty with the oath. But in case this does not occur I believe I will have to take the action outlined above. I advise you of it now because of the possible implications for the successful operation of the department next year.

Sincerely yours,

Kenneth E. Read, Chairman
Department of Anthropology

K.E.R.:agc

[fol. 324]

IN UNITED STATES DISTRICT COURT

PLAINTIFFS' EXHIBIT No. 13

University of Washington
INTERDEPARTMENTAL CORRESPONDENCE

June 6, 1962

Solomon Katz, Dean
College of Arts and Sciences

Professor Kenneth Read
Department of Anthropology

Dear Professor Read:

Thank you for your letter of June 4 regarding the so-called loyalty oath. I appreciate your concern for the effects which the requirements of the oath may have on your faculty next year. I hope, but obviously cannot be certain, that the issue will be resolved soon to the advantage and satisfaction of the University.

Meanwhile, I would suggest that you may wish to await the receipt of copies of the oath from the President's Office before you give new members of the faculty the advice you have outlined in your letter. It is possible that by that time you may be in a position to provide specific details of legal proceedings to test the constitutionality of the oath.

If you consider it inadvisable, however, to await the receipt of the oath forms, you may wish to inform new members of the department of the contents of the President's memorandum of May 28 and offer these members of the faculty the counsel you have outlined.

Sincerely yours,

/s/ SOLOMON KATZ
Solomon Katz
Dean

SK:sp

[fol. 325]

IN UNITED STATES DISTRICT COURT

PLAINTIFFS' EXHIBIT No. 15

UNIVERSITY OF WASHINGTON
DEPARTMENT OF MATHEMATICS
SEATTLE 5

December 18, 1961

Professor William B. Woolf
Department of Mathematics
University of Washington

Dear Bill:

According to Section 2441 of the Faculty Code, the Department and the College are required to review the status of all Assistant Professors who are in the second year of an initial three year appointment. The purpose of this review is to determine whether a renewal of the appointment will be made following the expiration of the initial three year term. In keeping with these regulations, I am very happy to write you that the renewal of your appointment has been approved by the Department and by Dean Katz. I am personally very pleased about this, for I believe that you are making an important contribution to the work of the Department and that the promise which we saw in you when you were first appointed has been more than fulfilled.

This renewal extends your appointment for a period which includes the year in which a decision will be made concerning your tenure at the University, but does not preclude an earlier promotion if the Department and the College believe this to be appropriate for you. The date of the award of tenure and the regulations concerning it are somewhat complicated and for this reason, I believe it best to refer you to Chapter 25 of the Faculty Code for the details. I should like to remind you, however, that the criteria for tenure include your effectiveness as a teacher, your growth as a scholar, and your other contri-

butions to the University and the community.. The College has recently reviewed these criteria and is about to publish a pamphlet which gives a detailed interpretation of them for the benefit of all members of the faculty. Although this is not yet available, it should be out within a few months. If you would like to discuss these with me in the meantime, I should be most happy to do so.

With best wishes for the holiday season.

Yours sincerely,

/s/ CARL B. ALLENDOERFER
Carl B. Allendoerfer
Executive Officer

CBA:be
cc: Dean Katz

[fol. 325a] Clerk's Note

Plaintiffs' Exhibit No. 16, "Affidavit of Mrs. Jean Ashford" is omitted from the record here as it appears on printed page 34, side folio 38 supra.

[fol. 326]

IN UNITED STATES DISTRICT COURT

PLAINTIFFS' EXHIBIT NO. 17

August 14, 1962

State of Washington)
) ss.
County of King)

I, Arthur F. Smullyan, Professor and Executive Officer of the Department of Philosophy at the University of Washington, being duly sworn, depose and say:

1) that on or about June 4, 1962, I received a copy of a memorandum from Provost of the University of Washington, Frederick P. Thieme, on the subject of required oaths for faculty and staff;

2) that on or about June 4, 1962, I received a supply of oath forms A and B for the department of philosophy;

3) that soon after June 4, 1962, and before June 10, 1962, and in accordance with my duties as Executive Officer of the Department of Philosophy, I began to administer said oaths to the employees of the department of philosophy who are under my jurisdiction;

4) that Professors Melvin Rader and Paul Dietrichson were informed that they were required to execute oath form A;

5) that Professors Melvin Rader and Paul Dietrichson have refused to execute oath form A and have continued to do so.

/s/ ARTHUR SMULLYAN
Chairman, Department of Philosophy

Subscribed and sworn to before me this 14th day of August A.D., 1962.

/s/ Huldah Swinehart
Notary Public in and for the State of Washington residing at Seattle

(SEAL)

[fol. 327]

IN UNITED STATES DISTRICT COURT

PLAINTIFFS' EXHIBIT NO. 3

THE
FACULTY
HANDBOOK

Parts I, II, and IV

(Emblem)
UNIVERSITY OF WASHINGTON
SEATTLE 1956

[fol. 328]

Chapter 24

APPOINTMENT AND PROMOTION OF FACULTY MEMBERS

* * * * * * * *

Section 2431. General Appointment Policy

The principal functions of a university are to preserve, to increase, and to transmit knowledge. Its chief instrument for performing these functions is its faculty, and its success in doing so depends largely on the quality of its faculty. The policy of this university should be to enlist and retain distinguished faculty members with outstanding qualifications.

Section 2432. Scholarly and Professional Qualifications of Faculty Members

A. Scholarship, the essence of effective teaching and research, is the obligation of all members of the faculty. A [fol. 329] faculty member's scholarship may be judged by the character of his advanced degrees and by his contribution to knowledge in the form of publication and instruction; it is reflected not only in his reputation among other scholars and professional men but in the performance of his students, both elementary and advanced.

B. The creative function of a university requires the appointment of faculty members devoted to inquiry and research. Among the criteria for evaluating research are publication of books, articles, and reviews of a scholarly nature; the directing of productive work by advanced students; the receipt of awards and fellowships; membership on boards and commissions devoted to inquiry; and the judgment of professional colleagues. Research may also be judged by significant achievement in an art related to a faculty member's work, such as musical composition, creative writing, or original design in engineering and architecture.

C. The educational function of a university requires the appointment of effective teachers who can transmit the results of research. Instruction must be judged according to

its essential purposes and the conditions which they impose. Among the criteria of teaching effectiveness are qualified student opinion, the performance of students, and the informed judgment of colleagues.

D. Contributions to a profession through published discussion of methods or through public demonstration of an achieved skill should be recognized as furthering the University's educational function.

E. Competence in committee and administrative work should be considered in judging a faculty member's qualifications, but except in unusual circumstances skill in instruction and research should be deemed of greater importance.

Section 2433. Qualifications for Regular and Research Appointments in Specific Ranks

A. Appointment to the rank of instructor normally requires completion of professional training, in many fields marked by the Ph.D.; and the promise of a successful career in teaching and research.

B. Appointment to the rank of assistant professor requires a record of successful teaching and research activity beyond that ordinarily required of an instructor.

[fol. 330] C. Appointment to the rank of associate professor requires a record of substantial success in both teaching and research, except that in unusual cases an outstanding record in one of these activities may be considered sufficient.

D. Appointment to the rank of professor requires outstanding, mature scholarship, and national recognition.

E. Appointment to a research rank requires qualifications corresponding to those prescribed for regular ranks in the preceding paragraphs of this Section.

* * * * * * *

Section 2437. Personal Qualifications for All Academic Appointments

A. In order to make its contribution a university must recruit able and responsible staff members who exhibit both perception and originality. A faculty member should pos- [fol. 331] sess unusual personal and intellectual integrity. He should have a free mind and should be dedicated to objective truth and its complete presentation. The University should avoid appointment of anyone who has personal traits which would negate his professional effectiveness or reflect discredit upon the academic profession. Especially should the University avoid appointment of anyone who seeks to diminish or destroy our liberties and our free institutions, upon which universities depend for their effective functioning.

B. The personal qualifications of acting or temporary appointees often may be judged by standards somewhat different from those applicable to regular staff members. Temporary personnel will not exercise lasting influence in University affairs, and for this reason certain personal characteristics which would disqualify a permanent appointee might be acceptable or tolerable in a temporary member of the faculty.

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[fol. 332]

In United States District Court

Plaintiffs' Exhibit No. 4

THE FACULTY HANDBOOK

Volume II

(Supplement to the 1956 *Faculty Handbook*)

RULES AND REGULATIONS OF THE UNIVERSITY OF WASHINGTON

1958

* * * * * * *

[fol. 333]

Part A

INTRODUCTION

The University of Washington in the fall of 1952 called upon an administrative committee of representative and highly regarded members of its faculty to frame a clear-cut statement of procedures for handling recommendations for appointment.

This committee consisted of Professor Edwin R. Guthrie, former Dean of the Graduate School and former Executive Officer in Charge of Academic Personnel, as chairman; Dr. H. Stanley Bennett, Professor of Anatomy; Professor Alfred Harsch, of the School of Law; Dr. J. Richard Huber, Professor of Economics; and Dr. Sargent G. Powell, Professor of Chemistry. The group has labored hard and long in framing the accompanying report. The whole University, I think, owes this group a large debt of gratitude for a job well and conscientiously done.

Their report, it seems to me, presents as good a basis for dealing with one of the most difficult problems facing higher education as I have seen proposed anywhere. Times of danger such as these in which we live are likely also to be times of confusion. It is good in such a time to have a statement of policy which recognizes the dangers and, at the same time, sets a clear course as to how they can be met. The suggestions in this report should reassure the people of the state that subversive elements will not be allowed access to their University and that, at the same time, the freedom so essential to the University's progress will be adequately protected.

The report recognizes the danger of acting hastily and in response to hysteria. Pointing out that American universities have grown to greatness "in a climate of free enterprise and initiative," it calls for calm, judicious investigation and evaluation of adverse reports or rumors about individuals recommended for appointment and asserts that the mere existence of such reports or rumors should not in itself be a bar to recommendation. It calls upon the University to act with sound judgment, determination, and conviction to "promote originality of thought,

encourage free discussion, and provide for the advance and dissemination of learning without permitting itself to be used as a focus for violent and unconstitutional assaults on our free democratic institutions."

This report recognizes, wisely I believe, that the Uni- [fol. 334] versity's personnel policies should take into account the "whole man" and should consider personal and other qualifications as well as technical training and background. Further, the report suggests the wise procedure, too often neglected in situations where tempers tend to run short, that all elements of the University concerned with appointment procedures should review the qualifications of prospective appointees early in their consideration. This provision, it seems to me, provides opportunity for consultation and joint decisions which are especially important in large institutions where adequate communication is all too often difficult to maintain.

After the report was submitted, it was presented to the University Senate, the legislative body of the University faculty, and subsequently was given the endorsement of this group. Also, it was presented to the Board of Deans of the University and by them to the executive committees or the executive officers of the various schools and colleges of the University. In the latter instances, the report was accepted by all those groups. The only reservation in such approval of the report was that of the Council of the College of Arts and Sciences, which accepted the report subject only to the understanding that its provisions did not alter the normal administrative procedures of the University as laid down in the Faculty Code.

On the basis of these endorsements by faculty and administrative officers of the University, the report can be said to have achieved the widest kind of acceptance within the University family. Subsequently, the report was transmitted to and accepted by the Board of Regents of the University of Washington at its meeting of June 12, 1953.

Believing that this widely accepted statement of policy and procedure represents the best thinking of the faculty and officers of the University of Washington, it is my intention to utilize the statement as a guide in processing recommendations for appointments to the University staff.

HENRY SCHMITZ
President

[fol. 335]

Part B

REPORT OF THE COMMITTEE

Section 1. Basic Considerations Involved in Appointment of Faculty

The appointment policy of the University of Washington should be one which will recruit and retain able and distinguished faculty members with the outstanding qualifications needed for the University to fulfill its purpose. The policy should prevent the appointment of persons who do not have such qualifications, or whose presence on the faculty would impair the effectiveness of the University. The required qualifications can be appreciated only in the light of an understanding of the purpose of a university and its relationship to the society which supports it and which it serves. That purpose is to advance and transmit knowledge, and to make it available to society. Knowledge so discovered and disseminated is one of our great sources of national well-being and power, and an important foundation of good citizenship.

In order to make its contribution a university must obtain in its faculty the services of able and responsible persons with penetrating minds, with vision and originality. Faculty members must be able to master an important field of advanced learning, to contribute new knowledge to it, and to communicate their learning to society. Each must possess deep personal and intellectual integrity, a free mind, and be dedicated to objective search for truth and its honest and complete presentation. The University should avoid harboring within its faculty any who are dedicated to the destruction of our liberties and our free institutions, upon which universities depend for their effective functioning.

The wisest of appointment policies will fail if the men chosen will not accept the posts offered them, or if, having accepted, they find conditions at the University which make it difficult or impossible for them to make their proper contributions. Once an able and responsible faculty has been appointed, the community and the University have

further to provide facilities and atmosphere which will permit this faculty to function properly. Important in this connection is an atmosphere of freedom, in which scholars may give expression to their new contributions, even if some of the ideas prove to be strange or unpopular. For the United States and its universities have grown to greatness in a climate of free enterprise and initiative which [fol. 336] has provided the flexibility and adaptability to changing conditions necessary for a flourishing economy and society. The basic freedoms of individual thought, religion, speech, press, political participation, and economic opportunity, all these along with free universities form a mutually interrelated group of institutions upon which depend the continued welfare and preservation of our free society.

With these considerations in mind, the University of Washington must fulfill with sound judgment, determination, and conviction its responsibilities to the people of the state. It is responsible to all the people, not to any minority or pressure group, be it political, religious, or economic. The University should promote originality of thought, encourage free discussion, and provide for the advance and dissemination of learning without permitting itself to be used as a focus for violent and unconstitutional assaults on our free democratic institutions. The citizens of the state of Washington expect their University to assume its obligations fully, with wisdom, diligence, and courage, in the interests of the people and their future, without permitting itself to be diverted from this high purpose by intimidation, dictation, or veto of any group, however vocal or persistent.

Section 2. Legal Framework for Appointment Policy

The Board of Regents is charged with the responsibility for appointment of the University faculty, and, in recognition of the important place a university holds among our free institutions, the basic law quite properly gives to the Board the broadest latitude in the performance of this important function. The Subversive Activities Act of 1951, however, imposes a restriction upon the power of the Re-

gents to appoint or retain as a member of the University staff any "subversive person," defined therein as one who acts to obtain the overthrow of our constitutional government by force, revolution, or violence. Otherwise the Regents are unrestricted in their appointment power or policy, except as their judgment and sense of responsibility may direct them.

But even prior to the legislative enactment of 1951 the Regents, exercising the discretion vested in them by statute, had taken the position that active members of the Communist party are disqualified to serve upon the University faculty. This policy in effect anticipated the requirements of the state Subversive Activities Act.

[fol. 337] Section 3. Faculty Responsibility for Appointments

While, as stated above, the Regents have the legal and final authority for appointment, the faculty, including the President, is responsible for recommending to the Regents the names of persons to be appointed to the faculty. In the University the faculty is the group which has the highly specialized knowledge and background essential for judging the professional and scholarly competence and promise of a candidate for a faculty position. The members of the faculty are also in an advantageous position to obtain information with respect to the personal traits and characteristics which bear upon a candidate's qualifications for a faculty post. Full and discriminating consideration by the faculty of factors in both areas is crucial for an effective and smooth-working appointment procedure. The faculty, consequently, must investigate and evaluate the scholarly and personal characteristics of a prospective appointee, must determine, on the basis of all relevant evidence, his suitability for the position for which he is proposed, and must provide the Regents, through the President, with all information needed for intelligent action upon the recommendation.

Section 4. Administrative Procedure for Recommending Appointees

When a faculty vacancy arises, an appointment committee of faculty members is ordinarily named to search for suitable candidates and to determine and study their qualifications. These administrative committees are appointed by the departmental head, the dean of the college, or the President, in accordance with the nature of the proposed appointment. As may be appropriate, such a committee may be an *ad hoc* committee created to consider a single appointment, or a standing committee of a department charged with considering a series of appointments of a certain nature.

The appointment committee should carry out an investigation adequate to obtain the information required, exploring as thoroughly as possible each candidate's professional and personal qualifications bearing significantly on his effectiveness in the proposed post, and evaluating the ways in which each attribute may contribute to or detract from the proper functioning of the University. When, after such a study, the committee finds a candidate or candidates who appear to have suitable qualifications, the name or names and the information obtained should be transmitted [fol. 338] to the dean and the President. If the President or dean has any additional information which bears on the candidate's suitability, it should be added to the data already assembled. The committee should then study and evaluate the entire body of information, and arrive at a decision regarding a recommendation for appointment. If an appointment is then to be proposed, the recommendation, including all the pertinent information, should be transmitted through the appropriate administrative channels, as through the department head, dean, and President.

Section 5. Obtaining and Evaluating Information About Candidates for Appointment

The study and evaluation of the qualifications of a person recommended for appointment to the University of Washington faculty should so far as possible establish that he has the outstanding scholarly and personal quali-

fications and promise needed, and that his experience, ability, and special knowledge fit him for the vacant post. Much of the necessary data can be obtained from personal interview, from the candidate's own writings and academic record, from his statements about himself, and from inquiry among his friends, acquaintances, professional associates and colleagues.

The University and its faculty do not wish to appoint anyone who has adverse personal qualifications which would negate his effectiveness in his post or impair substantially the work of the University, or which would subvert and destroy our free institutions, among which our universities, themselves have an important place. In this respect the listing of an individual with members of organizations or groups which have come to be associated with subversive activity is worthy of special consideration in view of present tensions and attitudes. Many have deemed such listing in itself as evidencing subversiveness or disloyalty of the person so listed; indeed, in the state of Oklahoma a law based on this premise was passed, requiring among other things that each state employee swear that he had not been within a period of five years a member of any organization listed as subversive by the Attorney General of the United States. The Supreme Court of the United States ruled this law unconstitutional, stating in its opinion of December 15, 1953: "But membership may be innocent. A state servant may have joined a proscribed organization unaware of its proclivities and purposes. In recent years, many completely loyal persons have severed organizational ties after learning for the first [fol. 339] time of the character of groups to which they had belonged. . . . At the time of affiliation a group itself may be innocent, only later coming under the influence of those who would turn it toward illegitimate ends. Conversely, an organization formerly subversive and therefore designated as such may have subsequently freed itself from the influences which originally led to its listing." A further consideration, not touched upon by the Supreme Court, is that some of the Communists recently convicted of perjury or of subversive activity have kept their names from lists of members of organizations of the character

here discussed. This emphasizes the unreliability of the lists in question, which may not only include the names of innocent, loyal, and well-meaning citizens, but may fail to designate persons active in subversive causes. If careful study and evaluation of all relevant findings lead to the conclusion that a person is in fact subversive or otherwise dedicated to the destruction of our free institutions, or that he possesses other disqualifying personal or moral characteristics, his appointment should not be recommended. Adverse reports or rumors should be calmly and judiciously investigated and evaluated. If such scrutiny leads to the conclusion that the adverse statements do not betoken any disqualifying characteristic in a prospective appointee, the mere existence of such adverse reports or rumors should not in itself be construed as a bar to recommendation. The decision will rest on the diligence, integrity, wisdom, judgment, and cooperation of the faculty, administration, and Regents, which in turn will be judged by many interested persons and groups within the state, the nation, and the academic world.

Section 6. Temporary and Acting Faculty Appointments

The procedure for selecting and appointing persons to the University staff in acting or temporary positions is similar to that for regular faculty appointments. In like manner, persons proposed for acting or temporary posts should be studied carefully, their scholarly and personal qualifications explored and assessed, and the propriety of the appointment established with respect to the Subversive Activities Act of 1951 and the University of Washington policy of avoiding the appointment of Communists or other subversive persons to the faculty. However, the qualifications of acting or temporary appointees may often be evaluated in a somewhat different context from those [fol. 340] of regular permanent appointments, for the former do not achieve positions of lasting influence in University affairs, and hence some personal characteristics regarded as disqualifying in a permanent appointee might be acceptable or tolerable for the brief duration of a temporary appointment.

Of these temporary appointments, Walker-Ames Professorships deserve special comment. These appointments carry high academic honor, and often attract considerable public interest. In considering persons for appointment in this category, special emphasis should be placed on the terms of the Walker-Ames bequest, which propose that the Fund be used by the Regents "to guarantee to the state of Washington the scholarly and educational services of the most distinguished minds available in this and other countries, and to acquire the services for said University of unusual minds. . . ." These posts should be reserved for persons of outstanding eminence, originality, and scholarly achievement, whom the University may not obtain or desire for the permanent staff, but who may bring new ideas, new knowledge, and scholarly inspiration to the campus during a brief sojourn without participating in the administrative functions of the institution. The University of Washington is fortunate in having available a fund for this worthy and rewarding purpose.

Section 7. Transient Visiting Lecturers and Artists

Visiting lecturers or visiting artists are on the campus only briefly, and their influence is neither widespread nor of long duration. Ordinarily, their contributions to the University are confined to their own field of specialty in art, science, literature, or the like. Their brief sojourn at the University, and the circumscribed nature of their presentations are such that an exhaustive advance study of all their personal and professional qualifications is not ordinarily justified. Such transient visits by able scholars and artists from other universities or cultural or scientific centers are of great value to the University. It is of the utmost importance that no crippling restrictions be placed on this type of activity.

It is customary for public lectures and concerts to be sponsored by a college or department, or by some organization such as Sigma Xi or Phi Beta Kappa, or by the Office of Lectures and Concerts. As the *Faculty Handbook* states, such public performances are to be given "with the approval and under the auspices of the Uni-

versity." The responsibility for making proper arrange-
[fol. 341] ments for such public events therefore lies jointly with the sponsoring division and with the President of the University. Agreement with respect to persons and program should be reached between the President and the sponsoring organization before any commitment or public announcement is made.

Transient visiting lecturers and artists perform a valuable service by bringing to the awareness of the students, faculty, and public the existence and nature of important developments or trends of thought in other places. All human and natural phenomena, whether or not they be of benefit to mankind, whether or not they be controversial or popular, form legitimate subjects for scholarly study and discussion at a university. A great university must provide for its faculty and students adequate opportunity for balanced hearing and evaluation of all representative points of view. For this reason, the University of Washington will serve its purpose best if it permits wide latitude in the utilization of the services of transient visiting speakers and artists.

Edwin R. Guthrie, Chairman
H. Stanley Bennett
Alfred Harsch
J. Richard Huber
Sargent G. Powell

May 26, 1953

[fol. 342]

SUPREME COURT OF THE UNITED STATES

No. 220, October Term, 1963

LAWRENCE W. BAGGETT, et al., Appellants,

vs.

DOROTHY BULLITT, et al.

ORDER NOTING PROBABLE JURISDICTION—October 14, 1963

Appeal from the United States District Court for the Western District of Washington.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.